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AND DIGESTS OF MEASURES

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Measures Submitted to Vote of Electors,
Primary Election, June 3, 1980
and General Election, November 4, 1980

General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature

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55—271

CHAPTER 545

An act to amend Sections 4010 and 4011 of the Elections Code, relating to elections.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the county clerk's official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 74 nor more than 89 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

SEC. 2. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the county clerk's last official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 94 nor more than 109 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

SEC. 3. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent of the voters of the city according to the county clerk's official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000

or less registered voters by the signatures of 25 percent of the voters or 100 voters of said city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring at least 45 days after the order of the legislative body.

SEC. 4. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent of the voters of the city according to the county clerk's official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of said city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not earlier than the 89th day nor later than the 75th day after the order of the legislative body.

SEC. 5. It is in the intent of the Legislature, if this bill and Assembly Bill No. 2033 are both chaptered and amend Section 4010 of the Elections Code, and this bill is chaptered after Assembly Bill No. 2033, that the amendments to Section 4010 proposed by both bills be given effect and incorporated in Section 4010 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 2033 are both chaptered, both amend Section 4010, and Assembly Bill No. 2033 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 2033 are both chaptered and amend Section 4011 of the Elections Code, and this bill is chaptered after Assembly Bill No. 2033, that the amendments to Section 4011 proposed by both bills be given effect and incorporated in Section 4011 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 2033 are both chaptered, both amend Section 4011, and Assembly Bill No. 2033 is chaptered before this bill, in which case Section 3 of this act shall not become operative.

CHAPTER 546

An act to amend Sections 6009.1, 8971 and 41075 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 6009.1 of the Revenue and Taxation Code is amended to read:

6009.1. "Storage" and "use" do not include the keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

SEC. 2. Section 8971 of the Revenue and Taxation Code is amended to read:

8971. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within the period during which a lien is in force as the result of the filing of a notice of state tax lien under Section 8996, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the state to collect the amount delinquent together with penalties and interest.

SEC. 2.5. Section 8971 of the Revenue and Taxation Code is amended to read:

8971. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within the period during which a lien is in force as the result of the filing of a notice of state tax lien under Section 7171, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the state to collect the amount delinquent together with penalties and interest.

SEC. 3. Section 41075 of the Revenue and Taxation Code is amended to read:

41075. The board shall give to the service supplier or service user written notice of its determination. The notice shall be placed in a sealed envelope with postage paid addressed to the service supplier or service user at his address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the

deposit of the notice in the United States post office or facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1541 are both chaptered, that Section 2.5 of this bill shall be given effect and Section 2 shall not be operative. If only this bill is chaptered then Section 2 shall be given effect and Section 2.5 shall not be operative.

CHAPTER 547

An act to amend Sections 1026, 1026.2, 1026.5, 1367, 1370, 1370.1, 1370.2, 1372, 1375.5, and 4029 of, to amend the heading of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of, to add Sections 1026.3, 1370.4, and 11105.1 to, to add Title 15 (commencing with Section 1600) to Part 2 of, to repeal and add Sections 1026.1, 1370.3, and 1374 of, the Penal Code, and to amend Sections 6316, 6325, and 6327 of, to add Sections 6325.3 and 7375 to, to repeal Sections 6317 and 7375 of, and to repeal and add Section 6325.1 of, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980.]

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

SECTION 1. Section 1026 of the Penal Code is amended to read:

1026. (a) When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only such other plea or pleas had been entered, and in such trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In such trial, the jury shall return a verdict either that the defendant was sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding be that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or

finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility approved by the county mental health director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health.

(b) Prior to making such order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall order the county mental health director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of such order a written recommendation as to whether the defendant should be placed on outpatient status or confined in a state hospital or other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or a designee. If, however, it shall appear to the court that the sanity of the defendant has been recovered fully, such defendant shall be remanded to the custody of the sheriff until the issue of sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court which committed the person shall, after notice and hearing, find and determine that the person's sanity has been restored. Nothing in this section shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority nor the transfer of such patient to a hospital in another state in the manner provided by law, upon order of the superior court in the county from which the person was committed, or in which the person is detained.

(c) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the county mental health director that the defendant be transferred to a public or private treatment facility approved by the county mental health director, order the defendant transferred to such facility. If the defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to a state hospital or to another public or private treatment facility approved by the county mental health director. Where either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing

which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

(d) Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or a designee.

(e) If the defendant is confined in a state hospital or other treatment facility as an inpatient or is on parole under the provisions of subdivision (a) or (b) of Section 1611, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the county mental health director of the county of commitment or a designee setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the prosecutor and defense counsel.

SEC. 2. Section 1026.1 of the Penal Code is repealed.

SEC. 3. Section 1026.1 is added to the Penal Code, to read:

1026.1. A person committed to a state hospital or other treatment facility under the provisions of Section 1026 shall be released therefrom only:

(a) Upon determination that sanity has been restored, as provided in Section 1026.2; or

(b) Upon expiration of the maximum term of commitment as provided in subdivision (a) of Section 1026.5, except as such term may be extended under the provisions of subdivision (b) of Section 1026.5; or

(c) As otherwise expressly provided in Title 15 (commencing with Section 1600) of Part 2.

SEC. 4. Section 1026.2 of the Penal Code is amended to read:

1026.2. An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by such person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The applicant shall transmit a copy of the application to the county mental health director or a designee. The court shall give notice of the hearing date to the county mental health director or a designee and to the Director of Mental Health. No hearing upon such application shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 90 days from the date of the order of commitment. If the finding of the court is adverse to releasing such person on the ground that sanity has not been restored, no application shall be filed by the person until one

year has elapsed from the date of hearing upon the last preceding application. In any hearing authorized by this section, the burden of proving that sanity has been restored shall be upon the applicant. The court shall notify the county mental health director or a designee and the Director of Mental Health whether or not the defendant was found by the court to have recovered sanity.

SEC. 5. Section 1026.3 is added to the Penal Code, to read:

1026.3. A person committed to a state hospital or other treatment facility under the provisions of Section 1026 may be placed on outpatient status from such commitment as provided in Title 15 (commencing with Section 1600) of Part 2.

SEC. 6. Section 1026.5 of the Penal Code is amended to read:

1026.5. (a) (1) In the case of any person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section. For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned under Section 2930 to 2932, inclusive.

(2) In the case of a person confined in a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony prior to July 1, 1977, and who could have been sentenced under Section 1168 or 1170 if the offense was committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in subdivision (b). The time limits of this section are not jurisdictional.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court. However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2, except that any hearings deemed necessary by the board shall be held within 90 days of September 28, 1979. Within 90 days of the date the person is received by the state hospital or other treatment

facility, or of September 28, 1979, whichever is later, the Community Release Board shall provide each person with the determination of his maximum term of commitment or shall notify such person that a hearing will be scheduled to determine the term.

Within 20 days following the determination of the maximum term of commitment the board shall provide the person, the prosecuting attorney, the committing court, and the state hospital or other treatment facility with a written statement setting forth the maximum term of commitment, the calculations, and any materials considered in determining the maximum term.

(3) In the case of a person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604 who committed a misdemeanor, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses of which the person was found to have committed, and the person may not be kept in actual custody longer than this maximum term.

(4) Nothing in this subdivision limits the power of any state hospital or other treatment facility or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

(b) (1) A person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if such person has been committed under Section 1026 for a felony of murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (a) or (b) of Section 451, a violation of subdivision 2 or 3 of Section 261, a violation of Section 459 in the first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 288, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310, or if the defendant has been found guilty of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, and who by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.

(2) If during a commitment, the medical director of a state hospital or other treatment facility has good cause to believe that a patient is a person described in paragraph (1), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in paragraph (1).

(3) When such a petition is filed, the court shall advise the person named in the petition of the right to be represented by an attorney and of the right to a jury trial. The rules of discovery in criminal cases shall apply.

(4) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the person and the prosecuting attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless such time is waived by the person.

(5) The person shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The state shall be represented by the district attorney who shall notify the Attorney General in writing that a case has been referred under this section. If the person is indigent, the county public defender or State Public Defender shall be appointed. The State Public Defender may provide for representation of the person in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(6) If the court or jury finds that the patient is a person described in paragraph (1), the court may order the patient recommitted to the facility in which the patient was confined at the time the petition was filed for an additional period of two years from the date of termination of the previous commitment.

(7) A person committed under this subdivision shall be eligible for release to outpatient status or parole pursuant to the provisions of Title 15 (commencing with Section 1600) of Part 2.

(8) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the patient remains a person described in paragraph (1). Such recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(9) Any commitment under this subdivision places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

SEC. 6.5. The heading of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code is amended to read:

CHAPTER 6. INQUIRY INTO THE COMPETENCE OF THE DEFENDANT BEFORE TRIAL OR AFTER CONVICTION

SEC. 7. Section 1367 of the Penal Code is amended to read:

1367. A person cannot be tried or adjudged to punishment while such person is mentally incompetent. A defendant is mentally

incompetent for purposes of this chapter if, as a result of mental disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner.

Section 1370 shall apply to a person who is incompetent as a result of a mental disorder. Section 1370.1 shall apply to a person who is incompetent as a result of a developmental disability and shall apply to a person who is incompetent as a result of a mental disorder, but is also developmentally disabled.

SEC. 8. Section 1370 of the Penal Code is amended to read:

1370. (a) (1) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent, the trial or judgment shall be suspended until the person becomes mentally competent, and the court shall order that (i) in the meantime, the defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered or to any other available public or private treatment facility approved by the county mental health director which will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600 and (ii) upon the filing of a certificate of restoration to competence, the defendant be returned to court in accordance with the provisions of Section 1372. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health.

(2) Prior to making such order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall order the county mental health director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of such order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or a designee.

(3) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the county mental health director that the defendant be transferred to a public or private treatment facility approved by the county mental health director, order the defendant transferred to such facility. If the defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to a state hospital or to another public or private treatment facility approved by the county mental health director. In the event of dismissal of the

criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). Where either the defendant or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or a designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital or other treatment facility to which the defendant is confined shall make a written report to the court and the county mental health director of the county of commitment or a designee concerning the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the county mental health director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the county mental health director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the state hospital or other treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, where the defendant is confined in a treatment facility, the medical director of the hospital or person in charge of the facility shall report in writing to the court and the county mental health director or a designee regarding the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, after the initial 90-day report, the outpatient treatment staff shall report to the county mental health director on the defendant's progress toward recovery and the county mental health director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the county mental health director or a designee and the Director of Mental Health.

(2) Any defendant who has been committed or has been on

outpatient status for 18 months and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the county mental health director or a designee and the Director of Mental Health.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. The court shall transmit a copy of its order to the county mental health director or a designee and the Director of Mental Health.

(c) (1) If, at the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, the defendant has not recovered mental competence, the defendant shall be returned to the committing court. The court shall notify the county mental health director or a designee and the Director of Mental Health of such return and of any resulting court orders.

(2) Whenever any defendant is returned to the court pursuant to paragraph (1) or (2) of subdivision (b) or paragraph (1) of subdivision (c) of this section and it appears to the court that the defendant is gravely disabled as defined in paragraph (2) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for such defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Any hearings required in the conservatorship proceedings shall be held in the superior court in the county which ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the county mental health director or a designee and shall notify the county mental health director or a designee and the Director of Mental Health of the outcome of such proceedings.

(d) The criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the county mental health director or a designee and to the Director of Mental Health.

(e) If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but without prejudice to the initiation of any proceedings which may be appropriate under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

SEC. 9. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) (1) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant

is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent, and the court shall order that (i) in the meantime, the defendant be delivered by the sheriff or other person designated by the court to a state hospital for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy restoration of mental competence, or be placed on outpatient status pursuant to the provisions of Section 1370.4 and Title 15 (commencing with Section 1600) of Part 2 and (ii) upon becoming competent, the defendant be returned to the committing court pursuant to the procedures set forth in paragraph 2 of subdivision (a) of Section 1372 or by another person designated by the court. The court shall transmit a copy of its order to the regional center director or a designee and to the Director of Developmental Services.

As used in this section, "developmental disability" means a disability which continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual. As defined by the Director of Developmental Services, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

(2) Prior to making such order directing the defendant be confined in a state hospital or other residential facility or placed on outpatient status, the court shall order the regional center director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of such order a written recommendation as to whether the defendant should be committed to a state hospital or to any other available residential facility No person shall be admitted to a state hospital or other residential facility or accepted for outpatient treatment under Section 1370.4 without having been evaluated by the regional center director or a designee.

(3) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to such facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.

The defendant or prosecuting attorney, may contest either kind of order of transfer, by filing a petition with the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing in the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or a designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital or other facility to which the defendant is committed, or the outpatient supervisor where the defendant is placed on outpatient status, shall make a written report to the regional center director or a designee concerning the defendant's progress toward recovery of mental competence. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the state hospital or other facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the medical director of the hospital or person in charge of the facility or the outpatient supervisor shall report to the regional center director or a designee regarding the defendant's progress toward recovery of mental competence. The regional center director or a designee shall transmit that report immediately to the court as part of the defendant's progress report. The court shall provide to the prosecutor and defense counsel copies of all reports under this section. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or a designee and the Director of Developmental Services.

(2) Any defendant who has been committed or has been on outpatient status for 18 months and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional

center director or a designee and the Director of Developmental Services.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court a copy of this order shall be sent to the regional center director or a designee and the Director of Developmental Services.

(c) (1) At the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, any defendant who has not been restored to mental competence shall be returned to the committing court. The court shall notify the regional center director or a designee and the Director of Developmental Services of such return and of any resulting court orders.

(2) In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code. If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385. The court shall notify the regional center director and the Director of Developmental Services of any such dismissal.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges. The court shall transmit a copy of any order of dismissal to the regional center director or a designee and to the Director of Developmental Services.

SEC. 10. Section 1370.2 of the Penal Code is amended to read:

1370.2. If a person is adjudged mentally incompetent pursuant to the provisions of this chapter, the superior court may dismiss any misdemeanor charge pending against the mentally incompetent person. Ten days notice shall be given to the district attorney of any motion to dismiss pursuant to this section. The court shall transmit

a copy of any order dismissing a misdemeanor charge pursuant to this section to either the county mental health director and the Director of Mental Health or the regional center director and the Director of Developmental Services, as appropriate.

SEC. 11. Section 1370.3 of the Penal Code is repealed.

SEC. 12. Section 1370.3 is added to the Penal Code, to read:

1370.3. A person committed to a state hospital or other treatment facility under the provisions of this chapter may be placed on outpatient status from such commitment as provided in Title 15 (commencing with Section 1600) of Part 2.

SEC. 13. Section 1370.4 is added to the Penal Code, to read:

1370.4. If, in the evaluation ordered by the court under Section 1370.1, the regional center director, or a designee, is of the opinion that the defendant is not a danger to the health and safety of others while on outpatient treatment and will benefit from such treatment, and has obtained the agreement of the person in charge of a residential facility and of the defendant that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant, the court may order the defendant to undergo outpatient treatment. All of the provisions of Title 15 (commencing with Section 1600) of Part 2 shall apply where a defendant is placed on outpatient status under this section, except that the regional center director shall be substituted for the county mental health director, the Director of Developmental Services for the Director of Mental Health, and a residential facility for a treatment facility for the purposes of this section.

SEC. 14. Section 1372 of the Penal Code is amended to read:

1372. (a) (1) If the medical director of the state hospital or other facility to which the defendant is committed, or the county mental health director or regional center director providing outpatient services under Title 15 (commencing with Section 1600) of Part 2 or Section 1370.4 or 1374.1, determines that the defendant has regained mental competence, such director shall immediately certify that fact to the court.

(2) Upon the filing of a certificate of restoration, the defendant shall be returned to the committing court in the following manner: A patient who remains confined in a state hospital or other treatment facility shall be redelivered to the sheriff of the county from which the patient was committed. The sheriff shall immediately return the person to the court for further proceedings. The patient who is on outpatient status shall be returned to court through arrangements made by the outpatient treatment supervisor.

(b) If the defendant becomes mentally competent after a conservatorship has been established pursuant to the applicable provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, and Section 1370, the conservator shall certify that fact to the sheriff and district attorney of the county in which defendant's case is

pending, defendant's attorney of record, and the committing court.

(c) When a defendant is returned to court with a certification that competence has been regained, the court shall notify either the county mental health director and the Director of Mental Health or the regional center director and the Director of Developmental Services, as appropriate, of the date of any hearing on the defendant's competence and whether or not the defendant was found by the court to have recovered competence.

(d) Where the committing court approves the certificate of restoration to competence as to a person in custody, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on own recognizance status pending conclusion of the proceedings. Where the superior court approves the certificate of restoration to competence regarding a person on outpatient status, unless it appears that the person has refused to come to court, that person shall remain released either on own recognizance status, or, in the case of a developmentally disabled person, either on the defendant's promise or on the promise of a responsible adult to secure the person's appearance in court for further proceedings. Where the person has refused to come to court, the court shall set bail and may place the person in custody until bail is posted.

SEC. 15. Section 1374 of the Penal Code is repealed.

SEC. 15.5. Section 1374 is added to the Penal Code, to read:

1374. When a defendant who has been found incompetent is on outpatient status under Title 15 (commencing with Section 1600) of Part 2 and the outpatient treatment staff is of the opinion that the defendant has recovered competence, the supervisor shall communicate such opinion to the county mental health director. If the county mental health director concurs, that opinion shall be certified by such director to the committing court. The court shall calendar the case for further proceeding pursuant to Section 1372.

SEC. 16. Section 1375.5 of the Penal Code is amended to read:

1375.5. Time spent by a defendant in a hospital or other facility as a result of a commitment therein as a mentally incompetent pursuant to this chapter shall be credited on the term of any imprisonment, if any, for which the defendant is sentenced in the criminal case which was suspended pursuant to Section 1370 or 1370.1.

As used in this section, "time spent in a hospital or other facility" includes days a defendant is treated as an outpatient pursuant to Title 15 (commencing with Section 1600) of Part 2.

SEC. 17. Title 15 (commencing with Section 1600) is added to Part 2 of the Penal Code, to read:

TITLE 15. OUTPATIENT STATUS FOR MENTALLY DISORDERED AND DEVELOPMENTALLY DISABLED OFFENDERS

1600. Any person committed to a state hospital or other treatment facility under the provisions of Section 1026, or Chapter 6 (commencing with Section 1367) of Title 10 of this code, or Section 6316 or 6321 of the Welfare and Institutions Code may be placed on outpatient status from such commitment subject to the procedures and provisions of this title, except that a developmentally disabled person may be placed on outpatient status from such commitment under the provisions of this title as modified by Section 1370.4.

1601. (a) In the case of any person charged with and found incompetent on a charge of, convicted of, or found not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery with a deadly or dangerous weapon or in which the victim suffers great bodily injury, a violation of subdivision (a) or (b) of Section 451, a violation of subdivision 2 or 3 of Section 261, a violation of Section 459 in the first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 288, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310, or any felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, outpatient status under this title shall not be available until such person has actually been confined in a state hospital or other facility for 90 days or more after having been committed under the provisions of law specified in Section 1600.

(b) In the case of any person charged with, convicted of, or acquitted by reason of insanity of any misdemeanor or any felony other than those described in subdivision (a), outpatient status under this title may be granted by the court prior to actual confinement in a state hospital or other treatment facility under the provisions of law specified in Section 1600.

1602. Any person subject to the provisions of subdivision (b) of Section 1601 may be placed on outpatient status, if all of the following conditions are satisfied:

(a) In the evaluation of the county mental health director or a designee, or in the case of a person who is an inpatient, the director of the state hospital or other treatment facility to which the person has been committed, the defendant will not be a danger to the health and safety of others while on outpatient status, and will benefit from such outpatient status.

(b) The county mental health director advises the court that the defendant will benefit from such status, and identifies an appropriate program of supervision and treatment.

(c) After actual notice to the prosecutor and defense counsel, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status.

(d) The county mental health director or a designee shall prepare and submit the evaluation to the court within 15 calendar days.

1603. Any person subject to the provisions of subdivision (a) of

Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(a) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant is no longer likely to be a danger to the health and safety of others while on outpatient status, and will benefit from such status.

(b) The county mental health director advises the court that the defendant will benefit from such status, and identifies an appropriate program of supervision and treatment.

(c) After actual notice to the prosecutor and defense counsel, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604.

1604. (a) Upon receipt by the committing court of the recommendation of the director of the state hospital or other treatment facility to which the person has been committed that the person may be eligible for outpatient status as set forth in subdivision (a) of Section 1603, the court shall immediately forward such recommendation to the county mental health director, prosecutor, and defense counsel.

(b) Within 30 calendar days the county mental health director or a designee shall submit to the court and the director of the state hospital or other treatment facility, a recommendation regarding the defendant's eligibility for outpatient status, as set forth in subdivision (b) of Section 1603 and the recommended plan for outpatient supervision and treatment. The court shall provide copies of this report to the prosecutor and the defense counsel.

(c) The court shall calendar the matter for hearing within 15 judicial days of the receipt of the county mental health director's report and shall give notice of the hearing date to the prosecutor, defense counsel, the county mental health director, and the director of the state hospital or other facility. The court shall, after a hearing in court, either approve or disapprove the recommendation for outpatient status. If the approval of the court is given, the defendant shall be placed on outpatient status subject to the terms and conditions specified by the court.

1605. (a) The county mental health director shall be the outpatient supervisor of persons placed on outpatient status under the provisions of this title. The county mental health director may delegate such outpatient supervision responsibility to a designee.

(b) The outpatient treatment supervisor shall, at 90-day intervals following the beginning of outpatient treatment, submit to the court, the prosecutor and defense counsel, and to the county mental health director, where appropriate, a report setting forth the status and progress of the defendant.

1606. Outpatient status shall be for a period not to exceed one year. At the end of the period of outpatient status approved by the court, the court shall, after actual notice to the prosecutor, the

defense counsel, and the county mental health director, and after a hearing in court, either discharge the person from commitment under appropriate provisions of the law, order the person confined to a treatment facility, or renew its approval of outpatient status. Prior to such hearing, the county mental health director shall furnish a report and recommendation to the medical director of the state hospital, where appropriate, and to the court, which the court shall make available to the prosecutor and defense counsel. The person shall remain on outpatient status until the court renders its decision unless hospitalized under other provision of the law. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health.

1607. If the outpatient supervisor is of the opinion that the person has regained competence to stand trial, or is no longer insane, or is no longer a mentally disordered sex offender, the county mental health director shall submit such opinion to the medical director of the state hospital, where appropriate, and to the court which shall calendar the case for further proceedings under the provisions of Section 1372 or 1026.2 of this code or Section 6325 of the Welfare and Institutions Code.

1608. If at any time during the outpatient period, the outpatient treatment supervisor is of the opinion that the person requires extended inpatient treatment or refuses to accept further outpatient treatment and supervision, the county mental health director shall notify the superior court in either the county which approved outpatient status or in the county where outpatient treatment is being provided of such opinion by means of a written request for revocation of outpatient status. The county mental health director shall furnish a copy of this request to the defense counsel and to the prosecutor in both counties if the request is made in the county of treatment rather than the county of commitment.

Within 15 judicial days, the court where the request was filed shall hold a hearing and shall either approve or disapprove the request for revocation of outpatient status. If the court approves the request for revocation, the court shall order that the person be confined in a state hospital or other treatment facility approved by the county mental health director. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health. Where the county of treatment and the county of commitment differ and revocation occurs in the county of treatment, the court shall enter the name of the committing county and its case number on the order of revocation and shall send a copy of the order to the committing court and the prosecutor and defense counsel in the county of commitment.

1609. If at any time during the outpatient period the prosecutor is of the opinion that the person is a danger to the health and safety of others while on outpatient status, the prosecutor may petition the court for a hearing to determine whether the person shall be continued on outpatient status. Upon receipt of the petition, the

court shall calendar the case for further proceedings within 15 judicial days and the clerk shall notify the person, the county mental health director, and the attorney of record for the person of the hearing date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such person. If, after a hearing in court conducted using the same standards used in conducting probation revocation hearings pursuant to Section 1203.2, the judge determines that the person is a danger to the health and safety of others, the court shall order that the person be confined in a state hospital or other treatment facility which has been approved by the county mental health director.

1610. Upon the filing of a request for revocation of outpatient status under Sections 1608 or 1609 and pending the court's decision on revocation, the person subject to revocation may be confined in a state hospital or other treatment facility by the county mental health director when it is the opinion of that director that the person will now be a danger to self or to another while on outpatient status and that to delay hospitalization until the revocation hearing would pose an imminent risk of harm to the person or to another. Upon the request of the county mental health director or a designee, a peace officer shall take, or cause to be taken, the person into custody and transport the person to a treatment facility for hospitalization under this section. The county mental health director shall notify the court in writing of the admission of the person to inpatient status and of the factual basis for the opinion that such immediate return to inpatient treatment was necessary. The court shall supply a copy of these documents to the prosecutor and defense counsel.

A person hospitalized under this section shall have the right to judicial review of the detention in the manner prescribed in Article 5 (commencing with Section 5275) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code and to an explanation of rights in the manner prescribed in Section 5352.1 of the Welfare and Institutions Code.

Nothing in this section shall prevent hospitalization pursuant to the provisions of Section 5150, 5250, 5350, or 5353 of the Welfare and Institutions Code.

A person whose confinement in a treatment facility under Section 1608 or 1609 is approved by the court shall not be released again to outpatient status unless court approval is obtained under Section 1602 or 1603.

1611. Where a county has no program appropriate for supervision and treatment of persons under Sections 1602 and 1603, or where the report of the county mental health director to the court under such sections indicates that the county does not wish to assume treatment responsibility, the following provisions shall be applicable:

(a) Whenever any person has been confined in a state hospital or other treatment facility for 90 days or more, after having been committed to a state hospital or other facility under the provisions

of Section 1026 in a criminal proceeding in which the offense alleged to have been committed by such person was punishable by a penalty other than death, or for three years or more if the offense alleged to have been committed was punishable by death, and the medical director of the state hospital or other facility is of the opinion that the person has improved to such an extent that the person is no longer a danger to the health and safety of others while on parole and that the person will receive benefit from parole, the medical director may certify that opinion to the committing court. The court shall notify the prosecuting attorney, the attorney of record for the person, and the county mental health director or a designee of the certification and shall make the evaluation and outpatient treatment plan available to them at least 15 days in advance of this hearing. The court shall hold a hearing in open court prior to ordering parole treatment, and shall either approve or disapprove the plan. If the approval of the court is given, parole shall be granted subject to the terms and conditions specified by the court. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health. At 90-day intervals following the beginning of parole treatment, the parole supervisor shall submit a written report to the state hospital or other facility from which the person was placed on parole setting forth the status and progress of the person. The medical director shall continue such reports at six-month intervals under Section 1026. If the court disapproves of such recommendation, no further recommendation for parole shall be made by the medical director until six months have elapsed from the date of the last preceding recommendation. The maximum period of parole treatment shall not exceed one year. The court shall, at the end of such maximum period, hold a hearing and either renew its approval for additional parole treatment upon the recommendation of the medical director of the state hospital or other facility from which the person was paroled, discharge from the commitment pursuant to Section 1026.2, or direct that the person be returned to the state hospital or other facility. The court shall transmit a copy of its order to the county mental health director or a designee, the medical director of the state hospital or other facility, and to the Director of Mental Health.

(b) If at any time during the period of parole the supervisor of the paroled person is of the opinion that the person no longer meets the conditions of parole and needs extended inpatient treatment, or that the person refuses to accept parole supervision, this information shall be communicated to the medical director of the inpatient facility from which the person was paroled, or a designee. If the medical director or a designee concurs, the parole supervisor shall notify the paroled person, the committing court, the prosecuting attorney, and the attorney of record for the person, of the intent to return the person to an inpatient facility. Such notice shall be in writing and shall state the reasons for the transfer. Within 15 judicial days after the notice has been served on the paroled person, the court shall set

a hearing at which the court shall determine whether the transfer will be approved or disapproved. A paroled person who requires inpatient treatment pending the court's determination whether return to an inpatient facility shall be approved shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code. A person whose return from parole status to an inpatient facility is approved under this section shall not be released again on parole unless court approval is again obtained pursuant to this section.

1612. Any person committed to a state hospital or other treatment facility under the provisions of Section 1026, or Chapter 6 (commencing with Section 1367) of Title 10 of this code, or Section 6316 or 6321 of the Welfare and Institutions Code shall not be released therefrom except as expressly provided in this title.

1613. Persons who have been paroled under former Section 7375 of the Penal Code shall, on January 1, 1981, be considered as paroled under Section 1611 and Section 1611 shall apply to such persons.

1614. Persons ordered to undergo outpatient treatment under former Sections 1026.1 and 1374 of the Penal Code and subdivision (a) of Section 6325.1 of the Welfare and Institutions Code shall, on January 1, 1981, be considered as being on outpatient status under this title and this title shall apply to such persons.

SEC. 17.5. Section 4029 of the Penal Code is amended to read:

4029. (a) Whenever within any county adult detention facility or part of any county detention facility used for the confinement of adults, not including any city jail, any facility, including but not limited to any room or cell, vocational training facility, recreation area, rest area, dining room, store, or facility for the exercise of religious freedom, is provided for use by any prisoner for any purpose, a separate facility of equal quality, or separate use of the same facility, or joint use of the same facility where appropriate, shall be provided for prisoners of the opposite sex for such purpose.

(b) Whenever within any county adult detention facility or part of any county detention facility used for the confinement of adults, not including any city jail, any program, service or privilege, including but not limited to any general or vocational education, physical education or recreation, work furlough program, psychological counseling, work within the institution, visiting privileges, or medical treatment, is provided for any prisoner, such a program, service or privilege of equal quality shall be provided for prisoners of the opposite sex, except when the proportion of prisoners of one sex is so small that the cost of providing any program, service or privilege described in this subdivision, other than medical treatment or health maintenance, for such prisoners would not be justified in relation to the reduction in the level of any other program, service or privilege that would result from the diversion of funds for such purpose.

(c) Nothing in this section shall require the establishment of any facility for the use of, or the making available of any program, service

or privilege to, any prisoner. Nothing in this section shall require any facility, program, service or privilege established or available prior or subsequent to January 1, 1975, to be made available to any particular male or female prisoner or number of such prisoners, except that any type of facility, program, service or privilege which is made accessible or available to all male or female prisoners in any class defined by subdivisions 1, 2, and 3 of Section 4001 shall be made accessible or available to all prisoners of the opposite sex in such class as provided in subdivisions (a) and (b), and any criterion other than the sex of the prisoner which is used for the selection of a particular prisoner or group of prisoners to have, or to have access to, any facility, program, service or privilege shall be equally applied to the selection of all prisoners, regardless of sex.

(d) Every county shall comply with subdivisions (a), (b), and (c) by January 1, 1979. Such compliance shall not be required unless the Legislature provides funds to assist in the accomplishment of such compliance. Every county shall report to the Legislature by January 1, 1976, as to whether such compliance can be accomplished, and stating the reasons why it cannot be accomplished if that be the case.

(e) Whenever within any county adult detention facility or part of any county detention facility used for the confinement of adults, not including any city jail, an inpatient psychiatric facility designated by the county mental health director to treat patients under Division 5 (commencing with Section 5000) and Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, is provided for prisoners of one sex who may not depart from the detention facility for treatment elsewhere, and where the proportion of prisoners of the opposite sex requiring the same type of treatment is so small that the cost of providing a separate program of equal quality would not be justified in relation to the reduction in the level of another program, service, or privilege that would result from the diversion of funds for such purpose, the above designated mental health treatment program may treat prisoners of both sexes if each of the following conditions is met:

(1) The program is one that would be considered suitable for the treatment of patients of both sexes if it were located in a psychiatric treatment facility devoted to evaluation and treatment under Division 5 (commencing with Section 5000) and Division 6 (commencing with Section 6000) of the Welfare and Institutions Code for patients who are not prisoners.

(2) A female deputy sheriff or other suitable woman assigned to jail duty is assigned to the treatment program in accordance with Sections 4020.4, 4020.7, 4020.8, and 4021 of this code. Notwithstanding the provisions of Section 4020.4 of this code, in a county of any size, the sheriff may designate a female member of the mental health treatment staff for this assignment.

SEC. 18. *Section 11105.1 is added to the Penal Code, to read:*

11105.1. The following persons shall be furnished with state summary criminal history information when needed in the course of

their duties: the director of a state hospital or other treatment facility to which a person is committed for treatment under Section 1026 and 1370 of the Penal Code or Section 6316 or 6321 of the Welfare and Institutions Code; and the county mental health director or a designee when ordered to evaluate a defendant for the court under paragraph (2) of subdivision (a) of Section 1370 and subdivision (2) of Section 1026 of the Penal Code or paragraph (2) of subdivision (a) of Section 6316 of the Welfare and Institutions Code, or to provide outpatient treatment and supervision services under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code; and the officer providing conservatorship investigation under Section 5354 of the Welfare and Institutions Code in cases where referral for conservatorship is made while the proposed conservatee is being treated under Section 1026 or 1370 of the Penal Code or Section 6316 or 6321 of the Welfare and Institutions Code. In all such instances, the criminal history record shall be transmitted by the court with the request for evaluation or during the conservatorship investigation or with the order committing the person to a treatment facility or approving outpatient status. Information obtained under this paragraph shall not be included in any document which will become part of a public record.

SEC. 19. Section 6316 of the Welfare and Institutions Code is amended to read:

6316. (a) (1) If, after examination and hearing, the court finds that the person is a mentally disordered sex offender and that the person could benefit by treatment in a state hospital, or other treatment facility the court in its discretion has the alternative to return the person to the criminal court for further disposition, or may make an order committing the person to the department for confinement in a state hospital, or may commit the person to the county mental health director for confinement in an appropriate public or private treatment facility, approved by such director or may place the person on outpatient status under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. A copy of such commitment shall be personally served upon such person within five days after the making of such order.

If after examination and hearing, the court finds that the person is a mentally disordered sex offender but will not benefit by care or treatment in a state hospital or other treatment facility the court shall then cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge. Such court shall resume the proceedings and shall impose sentence or make such other suitable disposition of the case as the court deems necessary.

The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health in all cases where a person is found to be a mentally disordered sex offender.

(2) Prior to making such order, the court shall order the county

mental health director or a designee to evaluate the person and to submit to the court within 15 judicial days of such order a written recommendation as to whether the person should be committed to a state hospital or to another treatment facility approved by the county mental health director or be placed on outpatient status under the provisions of Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. No such person shall be admitted to a state hospital or other treatment facility or placed on outpatient status without having been evaluated by the county mental health director or a designee.

(3) If the person is committed or transferred to a state hospital pursuant to this article, the committing court may, upon receiving the written recommendation of the medical director of the state hospital and the county mental health director that the person be transferred to a public or private treatment facility approved by the county mental health director, order the person transferred to such facility. If the person is committed or transferred to a public or private treatment facility approved by the county mental health director, the committing court may, upon receiving the written recommendation of the county mental health director or a designee, transfer the person to a state hospital or to another public or private treatment facility approved by the county mental health director. Where either the defendant, or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

Prior to making an order for transfer under this section, the court shall notify the person, the prosecuting attorney, attorney of record for the person, and the county mental health director or a designee.

(b) During the time the person is confined in a state hospital or other treatment facility as an inpatient under the provisions of this article, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court, and the county mental health director of the county of commitment or a designee concerning the person's progress toward recovery. The court shall supply a copy of the report to the prosecutor and the defense attorney.

SEC. 20. Section 6317 of the Welfare and Institutions Code is repealed.

SEC. 21. Section 6325 of the Welfare and Institutions Code is amended to read:

6325. (a) Whenever a person who is committed to a state hospital or other treatment facility under the provisions of this article or placed on outpatient status under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code has been treated to such

an extent that in the opinion of the medical director of the state hospital or other facility or the outpatient treatment supervisor under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, the person will not benefit by further care and treatment and is not a danger to the health and safety of others, the medical director or person in charge of the facility or county mental health director or a designee where the person is on outpatient status, shall file with the committing court a certification of that opinion including therein a report, diagnosis, and recommendation concerning the person's future care, supervision, or treatment.

(b) Whenever a person who is committed to a state hospital or other treatment facility under the provisions of this article or who is placed on outpatient status under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code has not recovered, and in the opinion of the medical director of the state hospital or other facility or of the county mental health director where the patient is on outpatient status the person is still a danger to the health and safety of others, the director shall file with the committing court a certification of that opinion, including therein a report, diagnosis and recommendation concerning the person's future care, supervision or treatment.

(c) The court shall transmit a copy of the opinion certified under subdivision (a) or (b) to the county mental health director or a designee and shall give notice of the hearing date to the county mental health director or a designee and to the Director of Mental Health.

Upon the expiration of the time for making a motion pursuant to Section 6325.2, upon the denial of such motion, or upon the entry of a finding that the person is no longer a mentally disordered sex offender after a hearing pursuant to Section 6327, the committing court shall order the return of the person to the committing court. The committing court shall thereafter cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge.

Such court shall resume the proceedings, upon the return of the person to the court, and after considering all the evidence before it may place the person on probation upon such terms as may be required to protect the public if the criminal charge permits such probation and the person is otherwise eligible for probation. In any case, where the person is sentenced on a criminal charge, the time the person spent under indeterminate commitment as a mentally disordered sex offender shall be credited by the court or community release board against such sentence. The court in which the criminal case was tried shall notify the county mental health director or a designee and the Director of Mental Health of the outcome of the criminal proceedings.

SEC. 22. Section 6325.1 of the Welfare and Institutions Code is repealed.

SEC. 23. Section 6325.1 is added to the Welfare and Institutions

Code, to read:

6325.1. A person committed pursuant to Section 6316.2 may be placed on outpatient status as provided in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

SEC. 24. Section 6325.3 is added to the Welfare and Institutions Code, to read:

6325.3. A person committed to a state hospital or other treatment facility under the provisions of Section 6316 or 6321 may be placed on outpatient status from such commitment as provided in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

SEC. 25. Section 6327 of the Welfare and Institutions Code is amended to read:

6327. After a person has been committed to the State Department of Mental Health for placement in a state hospital or to a county mental health director for placement in a treatment facility as a mentally disordered sex offender and has been confined or released on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 of the Penal Code for a period of not less than six months from the date of the order of commitment, the committing court may upon its own motion or on motion by or on behalf of the person committed, require the medical director of the state hospital or other facility or the outpatient supervisor, as appropriate, to forward to the committing court and to the county mental health director or a designee, within 30 days an opinion under subdivision (a) or (b) of Section 6325, including therein a report, diagnosis, and recommendation concerning the person's future care, supervision, or treatment. After receipt of the report, the committing court may order the return of the person to the court for a hearing as to whether the person is still a mentally disordered sex offender within the meaning of this article.

The court shall give notice of the hearing date to the county mental health director or a designee and to the Director of Mental Health.

The hearing shall be conducted substantially in accordance with Sections 6306 to 6314, inclusive. If, after the hearing, the judge finds that the person has not recovered from the mental disorder and is still a danger to the health and safety of others, the judge shall order the person returned to the State Department of Mental Health or county mental health director under the prior order of commitment. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health. A subsequent hearing may not be held under this section until the person has been confined or on outpatient status for an additional period of six months from the date of return to the department or county mental health director. If the court finds that the person has recovered from the mental disorder to such an extent that the person is no longer a danger to the health and safety of others, or that the person will not benefit by further care and treatment in the hospital or other facility and is not a danger to the health and safety of others,

the committing court shall thereafter cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge. The court in which the criminal charge was tried shall notify the county mental health director or a designee and the Director of Mental Health of the outcome of the criminal proceedings.

SEC. 26. Section 7375 of the Welfare and Institutions Code is repealed.

SEC. 27. Section 7375 is added to the Welfare and Institutions Code, to read:

7375. Whenever a convict is received into a state hospital under the provisions of Section 2684 of the Penal Code, the medical director of the state hospital shall, 90 days after the arrival of such person and each six months thereafter, report to the Director of Corrections regarding the status and progress of the person. The convict shall, on recovery, be returned to prison in accordance with the provisions of Section 2685 of the Penal Code.

SEC. 28. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 548

An act to amend Section 490 of the Business and Professions Code and Section 11507.7 of the Government Code, relating to state administrative proceedings.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 490 of the Business and Professions Code is amended to read:

490. A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, or the ground of knowingly making a false statement of fact required to be revealed in an application for such license. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

SEC. 2. Section 11507.7 of the Government Code is amended to read:

11507.7. (a) Any party claiming his request for discovery pursuant to Section 11507.6 has not been complied with may serve and file a verified petition to compel discovery in the superior court for the county in which the administrative hearing will be held, naming as respondent the party refusing or failing to comply with Section 11507.6. The petition shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why such matter is discoverable under this section, and the ground or grounds of respondent's refusal so far as known to petitioner.

(b) The petition shall be served upon respondent party and filed within 15 days after the respondent party first evidenced his failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, whichever period is longer. However, no petition may be filed within 15 days of the date set for commencement of the administrative hearing except upon order of the court after motion and notice and for good cause shown. In acting upon such motion, the court shall consider the necessity and reasons for such discovery, the diligence or lack of diligence of the moving party, whether the granting of the motion will delay the commencment of the administrative hearing on the date set, and the possible prejudice of such action to any party.

(c) If from a reading of the petition the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent party; otherwise the court shall enter an order denying the petition. The order to show cause shall be served upon the respondent and his attorney of record in the administrative proceeding by personal delivery or certified mail and shall be returnable no earlier than 10 days from its issuance nor later than 30 days after the filing of the petition. The respondent party shall have the right to serve and file a written answer or other response to the petition and order to show cause.

(d) The court may in its discretion order the administrative proceeding stayed during the pendency of the proceeding, and if necessary for a reasonable time thereafter to afford the parties time to comply with the court order.

(e) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that such matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under such provisions, the court may order lodged with it such matters as are provided in subdivision (b) of Section 915 of the Evidence Code and examine such matters in accordance with the provisions thereof.

(f) The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and such oral argument and additional evidence as the court may allow.

(g) Unless otherwise stipulated by the parties, the court shall no later than 30 days after the filing of the petition file its order denying or granting the petition, provided, however, the court may on its own motion for good cause extend such time an additional 30 days. The order of the court shall be in writing setting forth the matters or parts thereof the petitioner is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the clerk upon the parties. Where the order grants the petition in whole or in part, such order shall not become effective until 10 days after the date the order is served by the clerk. Where the order denies relief to the petitioning party, the order shall be effective on the date it is served by the clerk.

(h) The order of the superior court shall be final and not subject to review by appeal. A party aggrieved by such order, or any part thereof, may within 15 days after the service of the superior court's order serve and file in the district court of appeal for the district in which the superior court is located, a petition for a writ of mandamus to compel the superior court to set aside or otherwise modify its order. Where such review is sought from an order granting discovery, the order of the trial court and the administrative proceeding shall be stayed upon the filing of the petition for writ of mandamus, provided, however, the court of appeal may dissolve or modify the stay thereafter if it is in the public interest to do so. Where such review is sought from a denial of discovery, neither the trial court's order nor the administrative proceeding shall be stayed by the court of appeal except upon a clear showing of probable error.

(i) Where the superior court finds that a party or his attorney, without substantial justification, failed or refused to comply with Section 11507.6, or, without substantial justification, filed a petition to compel discovery pursuant to this section, or, without substantial justification, failed to comply with any order of court made pursuant to this section, the court may award court costs and reasonable attorney fees to the opposing party. Nothing in this subdivision shall limit the power of the superior court to compel obedience to its orders by contempt proceedings.

CHAPTER 549

An act to add Section 710.5 to the Unemployment Insurance Code, relating to unemployment disability insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1980 Filed with
Secretary of State July 17, 1980.]

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

SECTION 1. Section 710.5 is added to the Unemployment Insurance Code, to read:

710.5. (a) Notwithstanding the provisions of Section 709, any public agency, as defined in Section 3501 of the Government Code, may elect to become an employer subject to Part 2 (commencing with Section 2601) of this division, with respect to all employees who are a part of an appropriate unit established pursuant to the provisions of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, provided such election is the result of a negotiated agreement between the public agency and the recognized employee organization, as such terms are defined in Section 3501 of the Government Code.

Upon filing of such an election, the filing entity shall, upon approval by the director, become an employer subject to Part 2 (commencing with Section 2601) of this division to the same extent as other employers, and services performed by its employees who are members of the appropriate unit shall constitute employment subject to such part. Beginning at that time, the public agency shall withhold from the wages of such employees the contributions required for unemployment compensation disability benefits.

(b) No public agency, as defined in Section 3501 of the Government Code, may file an election pursuant to this section after December 31, 1983, provided that this subdivision shall not affect any election made pursuant to this section before January 1, 1984.

(c) The department shall study the impact on the Disability Fund of elections made pursuant to this section and report its findings to the Legislature before January 1, 1984.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for elections to be held at the earliest possible time, thereby permitting those employees who so wish to be covered by unemployment disability insurance, it is necessary that this act take effect immediately.

CHAPTER 550

An act to amend and renumber Section 27661 of, and to add Sections 27661, 27662, 27663, 27664, 27665, 27666, 27667, and 27668 to, the Food and Agricultural Code, relating to eggs.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 27661 of the Food and Agricultural Code is amended and renumbered to read:

27669. It is unlawful for any common carrier or private carrier for hire, except those which are engaged in transporting eggs and containers of eggs to and from farms where eggs are produced, to receive or transport any container which is marked with a brand that is registered pursuant to this chapter or regulation unless such carrier has in its possession a bill of lading or invoice which shows all of the following:

(a) The name and address of the consignor.

(b) The name and address of the consignee.

(c) The number of containers.

(d) The brand which appears on the containers.

SEC. 2. Section 27661 is added to the Food and Agricultural Code, to read:

27661. Every egg dealer shall register with the director each brand name which is intended for use by the dealer on a master container of eggs, other than a container made of corrugated fiber.

SEC. 3. Section 27662 is added to the Food and Agricultural Code, to read:

27662. It is unlawful for a brand registrant or his authorized agent or employees to pack eggs into a master container which does not bear the registrant's brand, or to transport or sell eggs in such container.

SEC. 4. Section 27663 is added to the Food and Agricultural Code, to read:

27663. Any person who, without prior authorization, acquires possession of a master container which bears a brand belonging to someone else, shall, at his own expense, return such container to the registered owner within 30 days. This section does not apply to the operator of a retail store who is not otherwise an egg dealer.

SEC. 5. Section 27664 is added to the Food and Agricultural Code, to read:

27664. Every person who operates a container exchange business for master containers of eggs shall obtain a license from the director.

SEC. 6. Section 27665 is added to the Food and Agricultural Code, to read:

27665. The director shall issue licenses to persons engaged in the

container exchange business for master containers of eggs pursuant to such regulations as the director deems necessary to protect the shell egg industry.

SEC. 7. Section 27666 is added to the Food and Agricultural Code, to read:

27666. Every licensee shall file with the director the name and address of each person or firm that has contracted to use the exchange services, and shall return all containers bearing a registered brand to the registered owner within 30 days after receipt.

SEC. 8. Section 27667 is added to the Food and Agricultural Code, to read:

27667. A licensee may sell containers which do not have a registered brand, and the ownership of which cannot be determined, to egg dealers. Such dealers shall apply a registered brand before use. The licensee shall keep a record of each such sale for a period of two years. All records required to be maintained by a licensee shall be made available to the director upon request.

SEC. 9. Section 27668 is added to the Food and Agricultural Code, to read:

27668. The director may suspend or revoke any license for failure to comply with the provisions of Sections 27664, 27666, or 27667 or regulations adopted by the director relating to activities which must be licensed pursuant to this article.

SEC. 10. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 551

An act to add Section 1051 to the Penal Code, relating to criminal procedure.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 1051 is added to the Penal Code, to read:

1051. Upon a trial for any offense, if a witness other than the defendant testifies as to an alibi defense, there shall be good cause for a reasonable continuance unless the court finds that the prosecutor was or should, with due diligence, have been aware of

such evidence.

CHAPTER 552

An act to amend Section 2037.7 of the Code of Civil Procedure, relating to expert witness fees.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980.]

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

SECTION 1. Section 2037.7 of the Code of Civil Procedure is amended to read:

2037.7. (a) Any other provision of law notwithstanding, in any case other than a workers' compensation case governed by the provisions of subdivision (b), any party desiring to take the deposition of a person retained as an expert by another party to the case, solely for the purpose of obtaining any expert opinion which the deponent holds upon the basis of his or her special knowledge, skill, experience, training, or education, shall pay the expert a reasonable fee not exceeding his or her customary hourly or daily fee for the time reasonably and necessarily spent in connection with such deposition including time spent in travel to and from the deposition, but excluding time spent in preparation. A fee based upon the anticipated length of the deposition shall be tendered to the expert. In the event the examination and necessary cross-examination of the expert takes longer than originally anticipated, the balance of the fee due the expert shall be paid by the party who noticed the deposition within five days of receipt of an itemized statement from the expert.

(b) Any other provision of law notwithstanding, in a workers' compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, any party desiring to take the deposition of a person retained as an expert by another party to the case shall pay the expert a reasonable fee not exceeding his or her customary hourly or daily fee for the time reasonably and necessarily spent in connection with such deposition including time spent in travel to and from the deposition, but excluding time spent in preparation. A fee based upon the anticipated length of the deposition shall be tendered to the expert. In the event the examination and necessary cross-examination of the expert takes longer than originally anticipated, the balance of the fee due the expert shall be paid by the party who noticed the deposition within five days of receipt of an itemized statement from the expert.

CHAPTER 553

An act to amend Sections 10240, 10241, and 10245 of the Business and Professions Code, relating to real estate loans.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980.]

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

SECTION 1. Section 10240 of the Business and Professions Code is amended to read:

10240. Every real estate licensee acting within the meaning of subdivision (d) of Section 10131 who negotiates a loan to be secured directly or collaterally by a lien on real property shall, before the borrower becomes obligated to complete the loan, deliver to the borrower a statement in writing, containing all the information required by Section 10241. It shall be personally signed by the borrower and by the real estate licensee negotiating the loan. When so executed, an exact copy thereof shall be delivered to the borrower at the time of its execution. The real estate licensee negotiating the loan shall retain on file for a period of four years a true and correct copy of such statement as signed by the borrower.

No real estate licensee shall permit such statement to be signed by a borrower if any information required by Section 10241 is omitted. This section is not applicable to a real estate licensee who negotiates a loan for a lender enumerated in subdivision (a) of Section 10133.1 on which the licensee receives a commission from the borrower not in excess of 2 percent of such loan.

SEC. 2. Section 10241 of the Business and Professions Code is amended to read:

10241. The statement required by Section 10240, the form of which shall be approved by the commissioner, shall set forth separately the following items:

(a) The estimated maximum costs and expenses of making the loan, which are to be paid by the borrower, including but not limited to:

(1) Appraisal fees.
(2) Escrow fees.
(3) Title charges.
(4) Notary fees.
(5) Recording fees.
(6) Credit investigation fees.

If a real estate licensee performs or is to perform any of the services provided for in this subdivision, such licensee shall be entitled to the costs and expenses thereof in addition to the charges provided for in subdivision (b).

(b) The total of the bonuses, brokerage or commissions contracted for or to be received by any person for negotiating,

procuring, or arranging or making such a loan.

(c) Any liens against the real property, as disclosed by the borrower, and the approximate amount thereof.

(d) The estimated amounts to be paid on the order of the borrower, as disclosed by the borrower, including but not limited to:

(1) Fire insurance premiums.

(2) Amounts due on prior liens, including interest or other charges arising in connection with the payment, release, reconveyance, extinction or other removal of record of such prior liens.

(3) Amounts due other creditors.

(4) Assumption, transfer, forwarding and beneficiary statement fees.

(e) The estimated balance of the loan funds to be paid to the borrower after deducting the total of subdivisions (a), (b) and (d).

(f) The principal amount of the loan.

(g) The rate of interest.

(h) The term of the loan, the number of installments, the amount of each installment, and the approximate balance, due at maturity.

(i) A statement containing the name of the real estate licensee negotiating the loan, his license number, and the address of his licensed place of business.

(j) A statement that the real estate licensee is not the lender, either directly or indirectly.

(k) The terms of prepayment privileges, and penalties, if any.

(*l*) A statement that the purchase of credit or credit disability insurance is not required as a condition for the making of the loan.

(m) If the loan is one that is within the limits specified in Section 10245, a certification by the real estate licensee negotiating the loan that the loan is being made in compliance with the provisions of this article.

SEC. 3. Section 10245 of the Business and Professions Code is amended to read:

10245. The provisions of this article, exclusive of the provisions of Sections 10240 and 10242.6, do not apply to any bona fide loan secured directly or collaterally by a first trust deed, the principal of which is twenty thousand dollars ($20,000) or more, or to any bona fide loan secured directly or collaterally by any lien junior thereto, the principal of which is ten thousand dollars ($10,000) or more.

CHAPTER 554

An act to amend Section 429.74 of the Health and Safety Code, relating to health manpower.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 429.74 of the Health and Safety Code is amended to read:

429.74. A trainee and his supervisor shall be held to the standard of care of, and shall be afforded the same immunities as, an individual otherwise legally qualified to perform the health care service or services performed by such trainee or supervisor.

CHAPTER 555

An act to add Section 1203.1b to the Penal Code, relating to probation.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 1203.1b is added to the Penal Code, to read:

1203.1b. (a) In any case in which a defendant is granted probation, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable cost thereof. The reasonable cost of probation shall not exceed the amount determined to be the actual average cost of probation services. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion, order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of the cost of probation. At a hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the evidence against the defendant, and a written statement of the findings of the court. If the court determines that the defendant has the ability to pay all or part of the cost, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability.

If practicable, the court shall order payments to be made on a monthly basis as directed by the probation officer. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

(b) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of

probation, and shall include, but shall not be limited to, the defendant's:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant shall be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs of probation.

(c) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering of the judgment.

CHAPTER 556

An act to amend Sections 32221, 32222, and 32224 of, the Education Code, relating to education.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 32221 of the Education Code is amended to read:

32221. The governing board of any educational institution, except a school district or community college district of any kind or class and Department of Education special schools as defined in Sections 59000, 59100, and 59200, shall provide for each member of an athletic team insurance protection for medical and hospital expenses resulting from accidental bodily injuries in an amount of at least five thousand dollars ($5,000) for all such services for each member of an athletic team, through group, blanket or individual policies of accident insurance from authorized insurers, or through a benefit and relief association described in subparagraph (1) of subdivision (c) of Section 10493 of the Insurance Code. Such coverage shall be for the injury to members of athletic teams arising while such members are engaged in or are preparing for an athletic event promoted under the sponsorship or arrangements of the educational institution or a student body organization thereof or

while such members are being transported by or under the sponsorship or arrangements of the educational institution or a student body organization thereof to or from school or other place of instruction and the place of the athletic event; provided that the Trustees of the California State University and Colleges and the Regents of the University of California may authorize and require the student body organizations designated pursuant to this section, to be responsible for such medical and hospital expenses in any amount the trustees or the regents may specify, up to two hundred fifty dollars ($250), in which event such insurance protection for the health and accident expenses may include a deductible clause in the same amount.

The governing board of each school district or community college district of any kind or class and the Department of Education special schools as defined in Sections 59000, 59100, and 59200 shall provide for each member of an athletic team insurance protection for medical and hospital expenses resulting from accidental bodily injuries in one of the following amounts:

(a) A group or individual medical plan with accidental benefits of at least two hundred dollars ($200) for each occurrence and major medical coverage of at least ten thousand dollars ($10,000), with no more than one hundred dollars ($100) deductible and no less than eighty percent (80%) payable for each occurrence.

(b) Group or individual medical plans which are certified by the Insurance Commissioner to be equivalent to the required coverage of at least one thousand five hundred dollars ($1,500).

(c) At least one thousand five hundred dollars ($1,500) for all such medical and hospital expenses.

Insurance protection in any of the above amounts shall be provided through group, blanket or individual policies of accident insurance from authorized insurers or through a benefit and relief association described in subparagraph (1) of subdivision (c) of Section 10493 of the Insurance Code. Such coverage shall be for the injury to members of athletic teams arising while such members are engaged in or are preparing for an athletic event promoted under the sponsorship or arrangements of the educational institution or a student body organization thereof or while such members are being transported by or under the sponsorship or arrangements of the school districts or community college districts or a student body organization thereof to or from school or other place of instruction and the place of the athletic event. Minimum medical benefits under any insurance required by this paragraph shall be equivalent to the three dollars and fifty cents ($3.50) conversion factor as applied to the unit values contained in the minimum fee schedule adopted by the Division of Industrial Accidents of the State of California, effective October 1, 1966.

The Trustees of the California State University and Colleges and the Board of Regents of the University of California shall designate such student body organizations as they deem appropriate to bear

the entire cost of the insurance under this article, in such proportions as they deem equitable, and shall make appropriate deductions from any such student body organization funds held by such institutions, or otherwise take such measures, as will assure the payment thereof.

The governing boards of the various school districts or community college districts and the Department of Education special schools shall require that each member of an athletic team have insurance protection as prescribed by this section, with the costs of such insurance protection to be paid either out of the funds of the district, the funds of the student body, or by any other persons on behalf of, the individual team members or students covered by such insurance. In the event that the governing board of a school district or community college district should determine that a member of an athletic team or the parents, guardians or other person having charge or control of a member of an athletic team are financially unable to pay the costs of such insurance protection, then the governing board shall require the costs of such protection to be paid either out of funds of the district or funds of the student body.

The insurance required by this article shall be issued by an admitted insurer, or through a benefit and relief association described in subparagraph (1) of subdivision (c) of Section 10493 of the Insurance Code.

The insurance otherwise required by this section shall not be required for any individual team member or student who has such insurance or a reasonable equivalent of health benefits coverage provided for him in any other way or manner, including, but not limited to, purchase by himself, or by his parent or guardian.

SEC. 2. Section 32222 of the Education Code is amended to read:

32222. Any claim for accidental bodily injuries described in this article which is subject to, and for which benefits have been paid under, the provisions of Division 4 (commencing with Section 3200) of the Labor Code is excluded from the required coverage and benefits under this article. Recreation activities under Chapter 10 (commencing with Section 10900) of Part 7 of this division, are excluded from the required coverage and benefits of this article.

SEC. 3. Section 32224 of the Education Code is amended to read:

32224. The insurance coverage provided under this article may contain the following provisions:

(1) School administrative authorities shall certify whether an injured student applying for the insurance benefits is a student of the educational institution and is enrolled as a member of an athletic team.

(2) The injured student, or his parents or guardian, shall notify school administrative authorities of his injury not later than 60 days from the date of injury.

(3) Medical or hospital care or treatment must commence within 120 days from the date of injury.

(4) The period of time for which benefits shall be payable is limited to 52 weeks from the date the student received his first

medical or hospital care or treatment. Benefits shall be payable only for such treatment as is given within the United States.

CHAPTER 557

An act to amend Section 1147 of the Probate Code, and to amend Section 8009 of the Welfare and Institutions Code, relating to the public deposit of funds by guardians and administrators.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 1147 of the Probate Code is amended to read:

1147. The public administrator, as soon as he or she receives the same, shall deposit all moneys of the estate with the county treasurer of the county in which the proceedings are pending or with one or more banks, or invest any amount thereof in an account or accounts in one or more insured savings and loan associations in the state, whereupon the public administrator shall be discharged from further care or responsibility therefor until the money is withdrawn by him or her. Money deposited with the county treasurer or with a bank or invested in an account or accounts in one or more insured savings and loan associations may be withdrawn upon the order of the public administrator when required for the purposes of administration.

SEC. 2. Section 8009 of the Welfare and Institutions Code is amended to read:

8009. All funds coming into the custody of the public guardian shall be deposited in the county treasury and disbursed by proper warrant issued pursuant to Chapter 5 (commencing with Section 29800) of Division 3 of Title 3 of the Government Code, or shall be deposited in one or more insured banks or invested in one or more insured savings and loan associations in the state. The public guardian is not legally responsible for funds coming into his custody while such funds are deposited in an insured bank or invested in an insured savings and loan association. Money deposited with the county treasurer or with an insured bank or invested in an account or accounts in an insured savings and loan association may be withdrawn only upon an order of the public guardian.

CHAPTER 558

An act to amend Section 12028 of the Penal Code, relating to weapons.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any of the weapons mentioned in Section 653k, 12020, or 12025 is a nuisance.

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, a nuisance.

(c) Any weapon described in subdivision (a), or, upon conviction of defendant, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed under federal law to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c) the weapon shall, in the month of July, next succeeding, be destroyed so that it can no longer be used as such weapon.

(e) This section shall not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of law, or regulation thereunder, in the Fish and Game Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivisions (c) or (d) unless reasonable notice is given to its lawful owner, if his identity and address can be reasonably ascertained.

CHAPTER 559

An act to amend Sections 4036.2, 4050.6, 4080.5, and 4410 of, and to repeal Section 4098.6 of, the Business and Professions Code, relating to pharmacy.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 4036.2 of the Business and Professions Code is amended to read:

4036.2. Notwithstanding any other provision of law, a prescriber may authorize his employee on his behalf to orally transmit a prescription to the furnisher. The furnisher shall record the name of the employee of the prescriber who transmits the order.

This section shall not apply to orders for Schedule II controlled substances as defined in Division 10 (commencing with Section 11053) of the Health and Safety Code.

SEC. 2. Section 4050.6 of the Business and Professions Code is amended to read:

4050.6. Each person applying for an exemption under the provisions of Section 4050.5 shall pay to the executive secretary of the board the fees provided for in subdivision (*l*) of Section 4416.

SEC. 3. Section 4080.5 of the Business and Professions Code is amended to read:

4080.5. (a) The board shall not issue any new permit, nor shall any existing permit be renewed after January 1, 1985, to conduct a pharmacy to any of the following:

(1) A person or persons authorized to prescribe or write a prescription, as specified in Section 4036, in the State of California.

(2) A person or persons with whom a person or persons specified in paragraph (1) shares a community or other financial interest in the permit sought.

(3) A corporation which is controlled by, or in which 10 percent or more of the stock is owned by a person or persons prohibited from pharmacy ownership by paragraph (1) or (2).

(b) Subdivision (a) shall not preclude the issuance of a permit for an inpatient hospital pharmacy, as defined in Section 4035.1, to the owner of the hospital in which it is located or a pharmacy as defined in Section 4035 whose owner is a registered nurse, physician's assistant, or a registered pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(c) The board may require information necessary for the enforcement of this section.

SEC. 4. Section 4098.6 of the Business and Professions Code is

repealed.

SEC. 5. Section 4410 of the Business and Professions Code is amended to read:

4410. Every registered pharmacist who desires to retain his or her registration on the books of the board shall, biennially, on or before October 31, pay to the executive secretary of the board the renewal fee, fixed by the board, within the limits prescribed by this chapter. In return for the payment of the renewal fee, a renewal certificate of registration shall be issued.

SEC. 6. The Legislature hereby finds and declares that the purpose of this act in amending Section 4080.5 of the Business and Professions Code is to affirm that the intent of the Legislature by the enactment of Section 4080.5 by Chapter 688 of the Statutes of 1979 was to prohibit the Board of Pharmacy from issuing any new pharmacy permits to specified medical licensees, on and after January 1, 1980, and to prohibit the board, on and after January 1, 1985, from renewing certain pharmacy permits which may have been issued to specified medical licensees.

SEC. 7. Section 3 of this act does not constitute a change in, but is declaratory of, existing law.

CHAPTER 560

An act to add Section 39376.5 to the Education Code, relating to school property.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 39376.5 is added to the Education Code, to read:

39376.5. (a) (1) If the governing board has complied with the provisions of this article, and no proposals are submitted or the proposals submitted do not conform with all terms and conditions specified in the resolution of intent to lease, the governing board may within one year thereafter, or one year after the passage of 30 days from the rejection of a public entity's nonconforming proposal, as appropriate, lease such real property, together with any personal property located thereon, to any lessee, at a price not less than fair market value in accordance with any terms and conditions agreed upon by the governing board and the lessee, except that the term of a lease shall not exceed three years. Sections 39361, 39363.5, and 39366 to 39369, inclusive, and Sections 39370 to 39373, inclusive, shall not apply to such lease.

(2) The governing board may by majority vote delegate an officer or employee of the district, or any other third person, to secure a

lessee and to negotiate the terms and conditions of the lease. However, the lease shall not be executed unless the governing board by majority vote, at a public meeting, approves such lease.

(3) If a public entity has submitted a nonconforming proposal, the governing board shall not take any action pursuant to this subdivision until 30 days after the rejection of such proposal.

(b) Subdivision (a) shall not apply if a public entity has submitted a proposal that does not conform with all the terms and conditions specified in the resolution of intent to lease, and if such public entity requests, in writing, within 30 days from the rejection of its proposal, that the governing board lease the real property, subject to the resolution of intent, in accordance with the provisions of this article.

CHAPTER 561

An act to amend Sections 6150, 6152, 6157, and 25303.1 of, to add Section 71386 to, and to repeal Section 6158 of, the Government Code, and to amend Section 40521 of the Vehicle Code, relating to offenses.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 6150 of the Government Code is amended to read:

6150. Any officer of a county who is not specifically authorized by statute so to do may be authorized by the board of supervisors of the county to accept negotiable paper in payment for any license, permit, or fee, in payment of any other obligation owing to such county, or in payment of any trust deposit. Such authorization may be withdrawn at any time by the board of supervisors and may be given under such conditions as the board of supervisors by resolution shall establish. Any officer so authorized may, at his discretion, accept negotiable paper in payment for any license, permit, or fee, in payment of any other obligation owing to such county, or in payment of any trust deposit.

SEC. 2. Section 6152 of the Government Code is amended to read:

6152. The acceptance of negotiable paper pursuant to this chapter constitutes payment of any amount owing to a county as of the date of acceptance when, but not before, the negotiable paper is duly paid.

SEC. 3. Section 6157 of the Government Code is amended to read:

6157. The state, and each city, whether general law or chartered, county, and district, each subdivision, department, board,

commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check not to exceed ten dollars ($10) may be imposed, which charge may be added to and become part of any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by such person may be prescribed.

The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

SEC. 4. Section 6158 of the Government Code is repealed.

SEC. 5. Section 25303.1 of the Government Code is amended to read:

25303.1. The board of supervisors of any county may authorize any officer of a county who is not specifically authorized by any other code section to accept negotiable paper in payment of any assessment, license, permit, or fee, or other money owing to any county or in payment of any trust deposit. After authorization by the board of supervisors, any officer of the county governed by provisions of this section may, at his discretion, accept negotiable paper in payment of any assessment, license, permit, or fee, or other money owing to the county or in payment of any trust deposit.

SEC. 6. Section 71386 is added to the Government Code, to read:

71386. (a) Each superior, municipal, and justice court shall adopt a written policy, consistent with rules adopted by the Judicial Council, governing the acceptance of checks and money orders in payment of any fees, fines, or bail deposits. Such policy shall permit clerks to accept checks and money orders under conditions which tend to assure their validity.

(b) A court shall accept a personal check, bank cashier's check, or money order for payment of any fee or fine, or for a deposit of bail for any offense which is not declared to be a felony, provided such check or money order meets the criteria established in subdivision (a), however, no court shall be required to accept a check in excess of three hundred dollars ($300) from a defendant in custody as a deposit of bail for any alleged violation of the Penal Code.

(c) The acceptance of a check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) If any check offered in payment pursuant to this section is

returned to the payee without payment, a reasonable charge for the returned check not to exceed ten dollars ($10) may be imposed, which charge may be added to and become part of any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by such person may be prescribed. The charges imposed by a court for a returned check shall be retained by the treasurer of the county and be deposited in the county general fund.

SEC. 7. Section 40521 of the Vehicle Code is amended to read:

40521. (a) Except when personal appearance is required by the bail schedule established under Section 1269b of the Penal Code, a person to whom a notice to appear has been issued under Section 40500 who intends to forfeit bail and to pay any penalty assessment may forward by United States mail the amount fixed as bail, together with the appropriate amount of any penalty assessment, to the person authorized to receive a deposit of bail. Such amounts may be paid in the form of a personal check which meets the criteria established pursuant to subdivision (c) of Section 40510, or a bank cashier's check or a money order. Bail and any penalty assessment shall be paid not later than the day of appearance set forth in the notice to appear or prior to the expiration of any lawful continuance of such date.

(b) Bail forwarded by mail shall be effective only when the funds are actually received.

(c) The provisions of Section 40512 are applicable to bail paid pursuant to this section. Upon the making of the order pursuant to Section 40512 that no further proceedings be had, the amount paid as bail shall be paid into the city or county treasury, as the case may be, and the penalty assessment shall be transmitted to the State Treasury in the manner provided in Section 42052.

SEC. 8. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 562

An act to add Section 877.6 to the Code of Civil Procedure, relating to settlements of claims.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 877.6 is added to the Code of Civil Procedure, to read:

877.6. (a) Any party to an action wherein it is alleged that two or more parties are joint tortfeasors shall be entitled to a hearing on the issue of the good faith of a settlement entered into by the plaintiff or other claimant and one or more alleged tortfeasors, upon giving notice thereof in the manner provided in Sections 1010 and 1011 at least 20 days before the hearing. Upon a showing of good cause, the court may shorten the time for giving the required notice to permit the determination of the issue to be made before the commencement of the trial of the action, or before the verdict or judgment if settlement is made after the trial has commenced.

(b) The issue of the good faith of a settlement may be determined by the court on the basis of affidavits served with the notice of hearing, and any counteraffidavits filed in response thereto, or the court may, in its discretion, receive other evidence at the hearing.

(c) A determination by the court that the settlement was made in good faith shall bar any other joint tortfeasor from any further claims against the settling tortfeasor for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault.

(d) The party asserting the lack of good faith shall have the burden of proof on that issue.

CHAPTER 563

An act to amend Section 1753 of the Business and Professions Code, relating to dental assistants.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 1753 of the Business and Professions Code is amended to read:

1753. The board shall license as a registered dental assistant a person who satisfies either of the following requirements:

(a) Graduation from an educational program in dental assisting approved by the board, and satisfactory performance on an examination required by the board.

(b) Satisfactory work experience of more than 18 months as a dental assistant and satisfactory performance on an examination required by the board. The board shall give credit toward the 18 months work experience referred to in this subdivision to persons who have graduated from a dental assisting program in a

postsecondary institution approved by the Department of Education that is not, however, approved by the board pursuant to subdivision (a). Such credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks. The board, in cooperation with the Superintendent of Public Instruction, shall establish the minimum criteria for the curriculum in such nonboard approved programs.

The Committee on Dental Auxiliaries shall review and report to the board, on or before January 1, 1982, on the number of nonboard approved programs in existence and the minimum criteria recommended for nonboard approved programs.

SEC. 2. This act shall be operative on and after July 1, 1981.

CHAPTER 564

An act to amend Section 20501 of, and to add Section 23511.4 to, the Elections Code, relating to elections.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980.]

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

SECTION 1. Section 20501 of the Elections Code is amended to read:

20501. (a) If at any election, except as provided in subdivision (b) and an election for Governor or Lieutenant Governor, two or more persons receive an equal and the highest number of votes for an office to be voted for in more than one county, the Secretary of State shall forthwith summon the candidates who have received the tie votes, whether upon the canvass of the returns by the Secretary of State or upon recount by a court, to appear before him or her at the Secretary of State's office at the State Capitol at a time to be designated by him or her. The Secretary of State shall at that time and place determine the tie by lot. Except as provided in subdivision (b), in the same manner, at a time and place designated by it, the election board shall determine a tie vote, whether upon the canvass of the returns by the election board or upon a recount by a court, for candidates voted for wholly within one county or city.

(b) In lieu of resolving a tie vote by lot as provided in subdivision (a), the legislative body of any county, city, or special district may resolve a tie vote by the conduct of a special runoff election involving those candidates who received an equal number of votes and the highest number of votes.

A special runoff election shall be held only if the legislative body adopts the provisions of this subdivision prior to the conduct of the election resulting in the tie vote. If a legislative body decides to call a special runoff election in the event of a tie vote, all future elections

conducted by that body shall be resolved by the conduct of a special runoff election, unless the legislative body later repeals the authority for the conduct of a special runoff election.

If a special runoff election is held pursuant to the provisions of this subdivision, the legislative body shall call for the runoff election to be held in the local entity on a Tuesday not less than 40 nor more than 125 days after the administrative or judicial certification of the election which resulted in a tie vote. If a regular election is to be held throughout the jurisdiction within such time period, the special runoff election shall be held on the same day as, and consolidated with, the regular election.

SEC. 2. Section 23511.4 is added to the Elections Code, to read:

23511.4. Notwithstanding any other provision of law, whenever any district has adopted the all-mailed ballot procedure for conducting general district elections pursuant to Section 23511.2 and any other election is scheduled to be held in territory that is the same or partly the territory of the district on the first Tuesday after the first Monday in November of the odd-numbered year, the district may, by resolution of the governing board, revoke the adoption of the all-mailed ballot procedure and order the general district election consolidated with such other election pursuant to Section 23301.5.

CHAPTER 565

An act to amend Section 2500 of the Business and Professions Code, and to amend Section 13401 of the Corporations Code, relating to professional corporations.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980.]

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

SECTION 1. Section 2500 of the Business and Professions Code is amended to read:

2500. A medical corporation is a corporation which is registered with the Division of Licensing or the Division of Allied Health Professions with reference to corporations rendering professional services as physicians and surgeons or as podiatrists or as physicians and surgeons and psychologists, or as physicians and surgeons and registered nurses, or as physicians and surgeons and podiatrists and the Board of Osteopathic Examiners with reference to corporations rendering professional services as osteopathic physicians and surgeons, and has a currently effective certificate of registration from the Division of Licensing or the Division of Allied Health Professions pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes,

rules and regulations, such medical corporation is entitled to practice medicine or medicine and psychology or medicine and nursing or medicine and podiatry. Any psychologist or registered nurse or podiatrist who is a shareholder in such corporation within the provisions of Section 13401 of the Corporations Code may practice individually the professional services for which he is licensed through and in the name of such corporation. With respect to a medical corporation, the governmental agency referred to in the Professional Corporation Act is the Division of Licensing or the Division of Allied Health Professions with reference to corporations rendering professional services as physicians and surgeons or as podiatrists or as physicians and surgeons and psychologists or as physicians and surgeons and registered nurses or as physicians and surgeons and podiatrists and the Board of Osteopathic Examiners with reference to corporations rendering professional services as osteopathic physicians and surgeons.

SEC. 2. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

(a) "Professional services" means any type of professional services which may be lawfully rendered only pursuant to a license, certification or registration authorized by the Business and Professions Code or the Chiropractic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law which is engaged in rendering professional services in a single profession, except as otherwise authorized, pursuant to a certificate of registration issued by the governmental agency regulating such profession as herein provided and which in its practice or business designates itself as a professional or other corporation as may be required by statute.

(c) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code or the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation of which he is or intends to become, an officer, director, shareholder or employee, provided however, that notwithstanding any other provision of this chapter, any physician licensed under the Medical Practices Act may become an officer, director or shareholder in, and render his individual professional services through, a psychological corporation or a podiatry corporation as long as the sum of all shares not owned by psychologists in a psychological corporation or podiatrists in a podiatry corporation does not exceed 49 percent of the total number of shares; and provided that the number of physicians owning shares in a psychological corporation or podiatry corporation shall not exceed the number of psychologists or podiatrists owning shares in the corporation; and provided further that, notwithstanding any other provisions of this chapter, any psychologist licensed under the Psychology Licensing Act or any registered nurse licensed under the Nursing Practice Act or

podiatrist under the Medical Practice Act may become an officer, director or shareholder in, and render his individual professional services through, a medical corporation as long as the sum of all shares not owned by physicians and surgeons in a medical corporation does not exceed 49 percent of the total number of shares; and provided that the number of pyschologists or registered nurses or podiatrists or psychologists, registered nurses and podiatrists combined owning shares in a medical corporation shall not exceed the number of physicians owning shares in that corporation.

(d) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the same professional services which the particular professional corporation of which he is an officer, director, shareholder or employee is or was rendering.

SEC. 3. The provisions of this act shall not become operative if Assembly Bill No. 2885 is also chaptered.

CHAPTER 566

An act to amend Section 928 of the Penal Code, relating to grand juries.

[Approved by Governor July 16, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 928 of the Penal Code is amended to read:

928. Every grand jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year, but the needs of each county officer shall be investigated and reported at least once every eight years. The grand jury shall cause a copy of such report to be transmitted to each member of the board of supervisors of the county.

CHAPTER 567

An act to amend Section 1812.201 of the Civil Code, relating to seller assisted marketing.

[Approved by Governor July 16, 1980. Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 1812.201 of the Civil Code is amended to read:

1812.201. For the purposes of this title, the following definitions shall be used:

(a) "Seller assisted marketing plan" means any sale or lease or offer to sell or lease any product, equipment, supplies or services which requires a total initial payment of an amount exceeding five hundred dollars ($500), but requires an initial cash payment of less than twenty-five thousand dollars ($25,000), which will be used by or on behalf of the purchaser to begin or maintain a business when the seller assisted marketing plan seller has advertised or in other manner solicited the purchase or lease of the seller assisted marketing plan and done any of the following acts:

(1) Represented that such purchaser will earn, is likely to earn, or can earn a net profit in excess of the initial payment paid by the purchaser for participation in the seller assisted marketing plan;

(2) Represented that there is a market for the product, equipment, supplies or services; or

(3) Represented that the seller will buy back or is likely to buy back any product made, produced, fabricated, grown or bred by the purchaser using, in whole or in part, the product, supplies, equipment or services which were initially sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller.

A "seller assisted marketing plan" shall not include a security as defined in the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

A "seller assisted marketing plan" shall not include a franchise as defined by the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code).

A "seller assisted marketing plan" shall not include any transaction in which either the seller or purchaser or the lessor or lessee is licensed pursuant to and the transaction is governed by the Real Estate Law, Division 4 (commencing with Section 10000) of the Business and Professions Code.

A "seller assisted marketing plan" shall not include a license granted by a general merchandise retailer which allows the licensee to sell goods, equipment, supplies, products or services to the general public under the retailers trade mark, trade name or service mark providing that the general merchandise retailer has been doing business in this state continuously for five years prior to the granting of the license and the general merchandise retailer also sells the same goods, equipment, supplies, products or services directly to the general public.

A "seller assisted marketing plan" shall not include a newspaper distribution system distributing newspapers as defined in Section

6362 of the Revenue and Taxation Code.

A "seller assisted marketing plan" shall not include a sale or lease to an existing or beginning business enterprise which also sells or leases equipment, products, supplies or performs services (i) which are not supplied by the seller and (ii) which the purchaser does not utilize with the equipment, products, supplies or services of the seller.

A "seller assisted marketing plan" shall not include the sale of an "ongoing business." An "ongoing business" is one which for at least six months previous to the sale: (i) has been operated from a given specific location, (ii) has been open for business to the general public and (iii) has had all equipment and supplies necessary for operating the business located at the given specific location.

A "seller assisted marketing plan" shall not include a sale or lease or offer to sell or lease to a purchaser: (i) who has for a period of at least six months previously bought products, supplies, services or equipment which were sold under the same trademark or trade name or which were produced by the seller; and (ii) who has received on resale of such product, supplies, services or equipment an amount which is at least equal to the amount of the initial payment.

A "seller assisted marketing plan" shall not include the renewal or extension of an existing seller assisted marketing plan contract.

(b) "Person" includes an individual, corporation, partnership, joint venture or any business entity.

(c) "Seller" is a person who sells or leases or offers to sell or lease a seller assisted marketing plan and:

(1) Has sold or leased or represents or implies that the seller has sold or leased, whether in California or elsewhere, at least five seller assisted marketing plans within 24 months prior to a solicitation; or

(2) Intends or represents or implies that the seller intends to sell or lease, whether in California or elsewhere, at least five seller assisted marketing plans within 12 months following a solicitation.

For purposes of this title, the seller is the person to whom the purchaser becomes contractually obligated. A "seller" does not include a licensed real estate broker or salesman who engages in the sale or lease of a "business opportunity" as such term is used in Sections 10000 to 10030, inclusive, of the Business and Professions Code, or elsewhere in Chapter 1 (commencing with Section 10000), Chapter 2 (commencing with Section 10050), or Chapter 6 (commencing with Section 10450) of Part 1 of Division 4 of the Business and Professions Code.

(d) "Purchaser" means a person who is solicited to become obligated or does become obligated on a seller assisted marketing plan contract.

(e) "Equipment" includes machines, all electrical devices, video or audio devices, molds, display racks, vending machines, coin-operated game machines, machines which dispense products and display units of all kinds.

(f) "Supplies" includes any and all materials used to produce, grow, breed or make any product or item.

(g) "Product" includes any tangible chattel, including food or living animals, which the purchaser intends to:

(1) Sell or lease to the general public.

(2) Use to perform a service for the general public.

(3) Resell or attempt to resell to the seller assisted marketing plan seller.

(4) Provide or attempt to provide to the seller assisted marketing plan seller so that the seller assisted marketing plan seller might resell the product to the general public.

(h) "Services" includes any assistance, guidance, direction, work, labor or services provided by the seller to initiate or maintain the seller assisted marketing plan.

(i) "Seller assisted marketing plan contract" or "contract" means any contract or agreement which obligates a purchaser to a seller.

(j) "Initial payment" means the total amount a purchaser is obligated to pay under the terms of the seller assisted marketing plan contract prior to or at the time of delivery of the equipment, supplies, products or services or within six months of the purchaser commencing operation of the seller assisted marketing plan. If the contract sets forth a specific total sale price for purchase of the seller assisted marketing plan which total price is to be paid partially as a downpayment and then in specific monthly payments, the "initial payment" means the entire total sale price.

(k) "Initial cash payment" or "downpayment" means that portion of the initial payment which the purchaser is obligated to pay to the seller prior to or at the time of delivery of equipment, supplies, products, or services. It does not include any amount financed by or for which financing is to be obtained by the seller, or financing which the seller assists in obtaining.

(*l*) "Buy-back" or "secured investment" means any representation which implies in any manner that the purchaser's initial payment is protected from loss.

SEC. 2. The amendments made to Section 1812.201 of the Civil Code by this act do not constitute a change in, but are declaratory of, existing law.

CHAPTER 568

An act to amend Sections 14035 and 14035.5 of, and to add Sections 14035.6 and 14035.65 to, the Government Code, relating to intermodal terminal facilities.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 17, 1980]

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

SECTION 1. Section 14035 of the Government Code is amended to read:

14035. The department may enter into contracts with railroad corporations to provide commuter and intercity passenger rail services.

Such contracts may include, but are not limited to, the extension of intercity passenger rail services provided by the National Rail Passenger Corporation under Section 403(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. Sec. 563(b)) or the upgrading of other commuter rail services, or the acquisition and improvement by the department of rail terminals for passenger service as the department determines will best encourage usage thereof.

The department may construct, acquire or lease, improve, and operate rail passenger terminals and related facilities which provide intermodal passenger services along the following corridors: the San Diego-Los Angeles corridor, the San Francisco Peninsula commute corridor, the Los Angeles-Oxnard corridor, the San Bernardino/Riverside-Los Angeles corridors, the San Jose-Oakland-Sacramento-Reno corridor, the Los Angeles-Bakersfield-Stockton-Oakland corridor, and the Los Angeles-Santa Barbara-Oakland-Davis-Redding corridor.

The department shall be the only public agency eligible to receive funds pursuant to Section 1614 of Title 49 of the United States Code.

SEC. 2. Section 14035.5 of the Government Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read:

14035.5. The department may enter into contracts with common carriers, as defined by Section 211 of the Public Utilities Code, or with any corporation, partnership, or person to provide feeder services to and from rail passenger terminals or intercity bus transportation.

The department may construct, acquire or lease, improve, and operate bus passenger terminals and related facilities which provide intermodal passenger services.

SEC. 3. Section 14035.6 is added to the Government Code, to read:

14035.6. The department shall request the involvement and cooperation of affected local agencies and public and private passenger carriers in decisions relative to the acquisition, development, and operation of intermodal passenger facilities.

SEC. 4. Section 14035.65 is added to the Government Code, to read:

14035.65. In developing or funding intermodal passenger service facilities, the department shall give full consideration to existing and projected operational requirements of all participating passenger carriers.

In setting fees for facility use assessed on passenger carriers, the department shall give fair and equitable treatment to all transportation carriers regardless of mode.

CHAPTER 569

An act to amend Section 1250 of, and to add Sections 1267.7 and 1267.8 to, the Health and Safety Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Small intermediate care facility/developmentally disabled habilitative" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent

recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(g) "General acute care/rehabilitation hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, laboratory, radiology, pharmacy, dietary, occupational therapy, physical therapy, rehabilitation, audiology, speech pathology; surgical and anesthesia services are provided through a contract with another facility having such services.

SEC. 2. Section 1267.7 is added to the Health and Safety Code, to read:

1267.7. The State Department of Health Services and the State Department of Developmental Services shall jointly develop and implement licensing and Medi-Cal regulations appropriate to small intermediate care facility/developmentally disabled habilitative facilities no later than March 1, 1981. The State Department of Developmental Services and the Office of Statewide Health Planning and Development shall jointly develop and implement construction and certificate of need regulations appropriate for small intermediate care facility/developmentally disabled habilitative no later than March 1, 1981. These regulations must insure that residents of such facilities are assured appropriate developmental and supportive health services in the most normalized, least restrictive physical and programmatic environment appropriate to individual resident need. Regulations promulgated pursuant to this section shall include provision for maximum utilization of generic community resources in the provision of services to residents and participation of the residents in community activities. Regulations developed pursuant to this section shall include licensing and certificate of need application fee schedules appropriate to smaller facilities, which will encourage their development. However, nothing in this section is intended to supersede the authority of the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 to the extent that such sections are applicable to community care facilities.

SEC. 3. Section 1267.8 is added to the Health and Safety Code, to read:

1267.8. (a) Small intermediate care facility/developmentally disabled habilitative shall meet the same fire safety standards adopted by the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 that apply to community care facilities, as defined in Section 1502, of similar size and with residents of similar

age and ambulatory status. No other state or local regulations relating to fire safety shall apply to such facilities and the requirements specified in this section shall be uniformly enforced by state and local fire authorities.

(b) Small intermediate care facility/developmentally disabled habilitative shall meet the same seismic safety requirements applied to community care facilities of similar size with residents of similar age and ambulatory status. No additional requirements relating to seismic safety shall apply to such facilities.

(c) For the purposes of all local zoning and use permit ordinances, small intermediate care facility/developmentally disabled habilitative of six beds or less shall be considered to be a community care facility and shall meet the requirements of Section 1520.5. No other state or local requirements relating to zoning and use permits shall apply to such facilities.

SEC. 4. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Department of Developmental Services, without regard to fiscal year, for development of community placements and community programs pursuant to priority and procedures established by the Director of Developmental Services with the concurrence of the Director of the Department of Finance. The Director of Developmental Services shall submit the proposed priority and procedures to the State Council on Developmental Disabilities, the Organization of Area Boards, and the Association of Regional Center Agencies who may review and comment thereon within 30 days of their receipt.

First priority shall be given to community placement of state hospital clients identified by the Department of Developmental Services as being appropriate for such placement and to deflect inappropriate admissions to state hospitals.

Priority shall also be given to the development of small intermediate care facililties/developmentally disabled habilitative to be licensed pursuant to subdivision (e) of Section 1250 of the Health and Safety Code.

The department may expend funds for development of necessary community programs, including independent living for persons with developmental disabilities.

CHAPTER 570

An act to amend Sections 17095 and 21175 of the Food and Agricultural Code, relating to livestock, and making an appropriation therefor.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 17095 of the Food and Agricultural Code is amended to read:

17095. The proceeds from the sale of any animal shall be paid into, and the expenses of holding, advertising, sale, and other incidental expenses shall be paid from, the Department of Agriculture Fund. For the keeping and care of the estray animal, the taker-up is entitled to a per day payment based on the prevailing rates charged by commercial enterprises which feed livestock on a custom basis.

In no event shall the taker-up be paid for feed and care for more than five days prior to the date the notice which is required by Section 17042 is made to the director.

SEC. 2. Section 21175 of the Food and Agricultural Code is amended to read:

21175. The shipper or person in charge of cattle being shipped or offered for inspection is responsible for sorting out stray animals and identifying such strays to the brand inspector prior to inspection.

(a) Any expense for feed and transportation incurred in the recovery of stray animals shipped without inspection, or shipped for inspection at destination, without the knowledge and consent of the owner, shall be recovered from the person responsible for the shipment.

(b) Any person failing to cut out or identify stray animals which are shipped without inspection or shipped for inspection at destination shall pay a penalty of fifty dollars ($50) for each animal to the Bureau of Livestock Identification which is in addition to any other penalty provided by law.

CHAPTER 571

An act to add Section 32100.6 to the Health and Safety Code, relating to hospital districts.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 32100.6 is added to the Health and Safety Code, to read:

32100.6. Notwithstanding any other provision of law, the voters of the Eden Township Hospital District may file a petition with its board of directors pursuant to the provisions of Section 32100.1, to elect its directors either by zones or from zones; provided, however, that the petition shall be deemed sufficient if it is signed by registered voters of the district equal in number to 5 percent of the

number of votes cast in the district for the office of Governor at the last preceding election at which a Governor was elected.

The term "by zones" shall mean the election of directors of a local hospital by the voters of the zone alone. The term "from zones" shall mean the election of directors of a local hospital district who are residents of the zone from which they are elected by the voters of the entire district.

CHAPTER 572

An act to amend Section 12419.5 of the Government Code, relating to state government.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 12419.5 of the Government Code is amended to read:

12419.5. The Controller may, in his discretion, offset any amount due a state agency from a person or entity, against any amount owing such person or entity by any state agency. The Controller may deduct from the claim, and draw his warrants for the amounts offset in favor of the respective state agencies to which due, and, for any balance, in favor of the claimant. Whenever insufficient to offset all amounts due state agencies, the amount available shall be applied in such manner as the Controller, in his discretion, shall determine. If, in the discretion of the Controller, the person or entity refuses or neglects to file his claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of such person or entity; if approved by the Controller it shall have the same force and effect as though filed by such person or entity. The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing such person or entity after any offset as in this section provided.

For purposes of this section, an amount owing to a person or entity by any state agency shall include any tax refund.

SEC. 2. The Legislature hereby finds that as a result of the court decision in Bonelli v. State of California (1977), 71 Cal. App. 3d 459, some confusion has arisen concerning the character of tax refunds.

This Legislature hereby declares that such tax refunds held or owing have the characteristics of a simple debt and do not create a trust relationship between the taxpayer and the state.

The Legislature further declares that the provisions of Government Code Section 12419.5 as amended by this act are a clarification and a declaration of existing law.

CHAPTER 573

An act to repeal and add Chapter 5 (commencing with Section 14501) of Division 7 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Chapter 5 (commencing with Section 14501) of Division 7 of the Food and Agricultural Code is repealed.

SEC. 2. Chapter 5 (commencing with Section 14501) is added to Division 7 of the Food and Agricultural Code, to read:

CHAPTER 5. FERTILIZING MATERIALS

Article 1. General Provisions

14501. The Legislature hereby finds and declares that it is the intent of this chapter to do all of the following:

(a) To promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber.

(b) To provide assurance to the consumer of commercial fertilizers, agricultural minerals, soil amendments, and auxiliary soil and plant substances that the product purchased is properly identified, and to provide assurance of the validity of the quality and quantity represented by the manufacturer of these products.

(c) To provide funds for the administration and enforcement of this chapter.

14502. The director shall enforce this chapter and adopt and enforce such regulations relating to the manufacture, labeling, and distribution of, the manner of reporting tonnage for, and making inspection tonnage fee payments upon, commercial fertilizers, agricultural minerals, soil amendments, and auxiliary soil and plant substances, as he determines necessary to carry out the provisions of this chapter. A copy of such regulations shall be mailed promptly upon adoption to each person who is licensed pursuant to this chapter. Failure to receive a copy of the regulations is not a defense to a violation of the regulations.

14503. Any money which is received by the director pursuant to this chapter shall be paid into the State Treasury to the credit of the Department of Agriculture Fund, to be expended solely for the administration and enforcement of this chapter.

14504. The director shall prepare an annual statement of the operating expenditures and revenue related to this chapter which shall be presented to the board for review as soon as possible following the termination of the fiscal year. A copy of this statement

shall be made available to any interested person upon request.

Article 2. Definitions

14511. "Agricultural liming materials" are agricultural minerals composed of calcium or magnesium compounds, or both, which are capable of neutralizing soil acidity and which are distributed in this state for that purpose.

14512. "Agricultural mineral" means any substance with nitrogen, available phosphoric acid, and soluble potash, singly or in combination, in amounts less than 5 percent, or containing recognized essential available secondary or micro plant nutrients in amounts equal or greater than minimum amounts specified by the director by regulation, and distributed in this state as a source of these elements for the purpose of promoting plant growth. It shall include gypsum, liming materials, treated manure, and sewage sludge not qualifying as commercial fertilizer.

14513. "Auxiliary soil and plant substance" means any chemical or biological substance or mixture of substances or device distributed in this state to be applied to soil, plants, or seeds for soil corrective purposes; or which is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or which is intended to produce any chemical, biochemical, biological, or physical change in soil; except that it shall not include commercial fertilizers, agricultural minerals, economic poisons, soil amendments, or manures. It shall include the following:

(a) Synthetic polyelectrolytes.

(b) Lignin or humus preparations.

(c) Wetting agents to promote water penetration.

(d) Bacterial inoculants.

(e) Microbial products.

(f) Soil binding agents.

(g) Any similar product or device intended to be used for influencing soils, plant growth, or crop or plant quality.

14513.5. "Board" means the Fertilizer Inspection Advisory Board.

14514. "Brand" means any term, design, or trademark used in connection with a commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance product.

14515. "Bulk material" means a commercial fertilizer, agricultural mineral, soil amendment, auxiliary soil chemical, or plant growth substance distributed in nonpackaged form or in a container containing more than 50 kilograms or 110 pounds.

14516. "Commercial fertilizer" means any substance which contains 5 percent or more of nitrogen (N), available phosphoric acid (P_2O_5), or soluble potash (K_2O), singly or collectively, which is distributed in this state for promoting or stimulating plant growth. It shall not include untreated animal or vegetable manures.

14517. "Distribute" means to sell, offer, expose for sale, exchange, barter, or otherwise supply products for use in or shipment within or into this state.

14518. "Distributor" means any person who imports or consigns a commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance, or who offers for sale, sells, barters, or othewise supplies these products for use in, or shipment within or into, this state.

14519. "Fertilizer material" means a commercial fertilizer in which either of the following conditions are met:

(a) The primary plant nutrients are present in a single chemical compound or a material resulting directly from a chemical manufacturing process.

(b) The fertilizer is derived from a plant or animal residue or by-product or natural mineral deposit which has been processed in such a way that its content of primary plant nutrients has not been materially changed except by purification and concentration.

14520. "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in the same terms, order, and percentage as the guaranteed analysis.

14521. "Investigational allowance" means an allowance for variation inherent in the taking, preparation, and analysis of an official sample of commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance.

14522. "Label" means the display of all written, printed, or graphic matter on the immediate container of, or a statement accompanying, a commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance product.

14523. "Labeling" means all written, printed, or graphic matter on, accompanying, or used in promoting any commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance, including advertisements, brochures, posters, and television and radio announcements used in promoting the sale of a commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance product.

14524. "Licensee" means a person who has obtained a license pursuant to the provisions of this chapter.

14525. "Mixed fertilizer" is a commercial fertilizer containing any combination or mixture of fertilizing materials.

14526. "Official sample" means any sample of commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance taken by an agent of the department and designated as "official" by the department.

14527. "Percent or percentage" means percentage by weight.

14528. "Person" means individual, partnership, association, firm or corporation.

14529. "Registrant" means any person who has registered an agricultural mineral, auxiliary soil and plant substance, or soil amendment pursuant to this chapter.

14530. "Sewage sludge" means the solid material resulting from treatment of waste water of residential sewage systems.

14531. "Soil amendment" means any substance distributed for the purpose of promoting plant growth or improving the quality of crops by conditioning soils solely through physical means. It shall include all of the following:

(a) Hay.

(b) Straw.

(c) Peat moss.

(d) Leaf mold.

(e) Sand.

(f) Wood products.

(g) Any product or mixture of products intended for use as a potting medium.

(h) Treated manures sold without guarantees for plant nutrients.

(i) Any other substance or product which is intended for use solely because of its physical properties.

14532. "Specialty fertilizer" is a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, parks, cemeteries, greenhouses, hydroponic facilities, and nurseries.

14533. "Ton" means a net weight of 2,000 pounds avoirdupois.

14534. "Treated manure" means any substance composed primarily of animal excrement which has been treated in any manner, including mechanical drying or the adding of chemicals or other substances. Treated manure which is distributed under a label with guarantees of nutrient content shall be classed as commercial fertilizer or agricultural mineral, depending on its analysis.

14535. "Untreated manure" means any substances composed primarily of animal excrement, plant remains, or mixtures of such substances which have not been treated by adding chemicals or other substances, and for which no guarantee for plant nutrients is made.

Article 3. Fertilizer Inspection Advisory Board

14541. There is, in the department, a Fertilizer Inspection Advisory Board consisting of nine persons appointed by the director, eight of whom shall be licensed under this chapter and subject to payment of the inspection fee in accordance with the provisions of this chapter, and one of whom shall be a public member. The members of the board shall receive no salary, but are entitled to payment of necessary traveling expenses in accordance with State Board of Control rules. Such expenses shall be paid out of appropriations made to the department pursuant to this chapter.

14542. The term of office of a member of the board is three years. The initial board shall consist of, three members appointed for a term of three years, three members appointed for a term of two years, and three members appointed for a term of one year. Thereafter,

appointments shall be for full three-year terms. Vacancies shall be filled for the duration of an unexpired term.

14543. The board shall be advisory to the director and may make recommendations on all matters pertaining to this chapter including, but not limited to, the inspection and enforcement program, annual budget, necessary fees to provide adequate inspection services, and regulations required to accomplish the purposes of this chapter.

14544. The board shall elect a chairman, and other officers as it may deem advisable.

14545. The board shall meet at the call of its chairman or the director, or at the request of any five members of the board. The board shall meet at least once a year.

Article 4. Licensing

14551. Every person who manufactures or distributes commercial fertilizer, agricultural minerals, packaged soil amendments, or auxiliary soil and plant substances shall, before he engages in such activity, obtain a license from the director for each plant or business location from which he operates. However, a person who makes only retail sales of packaged commercial fertilizer, agricultural minerals, soil amendments, or auxiliary soil and plant substances which bear the label of a currently licensed person shall not be required to obtain such license.

A person is not entitled to a license unless he has a permanent place of business.

14552. Each application for a license shall be on a form supplied by the director and accompanied by a fee of thirty-five dollars ($35) for each plant for each year or portion of a year beginning January 1st. This fee is not refundable.

14553. The license shall expire on December 31 of each year and shall be renewed annually. Each application for renewal shall be accompanied by a fee of thirty-five dollars ($35) for each plant or business location. If a license is not renewed within one calendar month following expiration, a penalty of ten dollars ($10) shall be added to the fee, and an additional penalty of ten dollars ($10) shall be added for each succeeding calendar month the business location remains unlicensed. The total penalty shall not, however, exceed 100 percent of the original amount due.

Article 5. Registration

14561. Each specialty fertilizer, agricultural mineral, auxiliary soil and plant substance, and packaged soil amendment of differing analysis or composition, shall be registered by the person whose name appears on the label before being distributed in, or for use in, this state. The application for registration shall be submitted to the director on forms furnished by the director and shall be accompanied by a fee of twenty-five dollars ($25) for one product and ten dollars

($10) for each additional product to be registered. The fee is not refundable. All registrations shall expire on June 30 of each year. Each application for registration shall include the following information:

(a) The name and address of the registrant or proposed registrant.

(b) The brand product name, brand name, or trademark.

(c) The guaranteed analysis for plant nutrients or active ingredients.

(d) The sources from which the guaranteed plant nutrients or active ingredients are derived.

(e) One copy of all labeling used in this state for promotion and sales of each of the products being registered shall be furnished to the director upon request.

14562. The director may require proof of labeling statements and other claims made for any specialty fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance before he registers any product. As evidence of proof, the director may rely on experimental data, evaluations, or advice furnished by scientists such as those of the University of California, and may accept or reject additional sources of proof in his evaluation of any agricultural mineral or auxiliary soil and plant substance. In all cases experimental proof must relate to conditions in California under which the product is intended for use.

14563. The director, after hearing, may cancel the registration of, or refuse to register any specialty fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance which the director determines is detrimental or injurious to plants, animals, public safety, or the environment when it is applied as directed, or which is known to be of little or no value for the purpose for which it is intended, or for which any false or misleading claim is made or implied. The director may cancel the registration of any person who violates the provisions of this chapter.

14564. The proceedings to cancel or refuse registration shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall have all the powers which are granted in such chapter.

14565. If a specialty fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance, not registered in the preceding year in this state, is sold or distributed for use in this state without a current registration, a penalty for failure to register of five dollars ($5) per day shall be assessed against the person responsible for registration, with each day subsequent to the time of the first sale or distribution for use in the state deemed a separate violation. However, the penalty shall not exceed five hundred dollars ($500). The penalty shall constitute a debt and shall be paid by the registrant at the time the application for registration is submitted to the director.

14566. If registration renewal is not obtained within one calendar month after expiration, there shall be added to the registration fee

a penalty of ten dollars ($10) for each product to be reregistered.

Article 6. Inspection Fees

14571. Each person licensed in accordance with Article 4 (commencing with Section 14551) shall pay to the director an assessment not to exceed 2 mills per dollar of sales, for all sales of commercial fertilizers, agricultural minerals, or auxiliary soil and plant substance products to unlicensed retailers and consumers in this state. A mill tax assessment for packaged soil amendments shall be one-half of the rate established for commercial fertilizer, agricultural minerals, or auxiliary soil and plant substance products. The director may, based on the finding and recommendation of the board, reduce the mill tax assessment rate to a lower rate which provides sufficient revenue to carry out the provisions of this chapter.

14572. Each licensee shall maintain in this state, or with the director's permission at another location, an accurate record of all transactions subject to assessment. Such records shall be maintained for a period not less than three years following the transaction and shall be subject to audit by the director.

14573. The payment required by Section 14571 together with a return in a form prescribed by the director, shall be made quarterly one calendar month after March 31, June 30, September 30, and December 31 of each year. For any delinquency in making a return, or any deficiency in payment, the director may add to such delinquent payment a penalty of 15 percent of the original amount due or fifteen dollars ($15), whichever is greater. Any delinquency beyond ninety days is cause for cancellation of a license.

Article 7. County Tonnage Reports

14581. The last licensee selling or distributing a commercial fertilizer or agricultural mineral or both shall submit a summary report on a form approved by the director of shipments or deliveries made during specified periods, at such time as required by the director by regulation. This report shall show the county of consignment, the amounts in tons by grade of commercial fertilizer or an analysis of agricultural mineral with the amount in tons, or such information determined necessary by the director pursuant to regulations adopted in accordance with this chapter.

14582. The director shall publish a quarterly commercial fertilizer and agricultural mineral tonnage report which shall include a report of tonnage by grade for commercial fertilizers and by analysis for agricultural minerals by county. The director may omit or consolidate small tonnages. The director may charge the actual costs as a fee for the report.

Any information furnished the director under this chapter shall not be disclosed in such a way as to divulge the business practices of

any licensee.

14583. Failure to submit a tonnage report of commercial fertilizer and agricultural minerals sales on or before the date specified by the director by regulation, shall subject the licensee to payment of a penalty of fifteen dollars ($15). An additional penalty of ten dollars ($10) shall be charged for each succeeding month a tonnage report remains delinquent, except that the total penalty for a late submission of a monthly tonnage report shall not exceed seventy-five dollars ($75).

Article 8. Labels

14591. (a) Every lot, parcel, or package of commercial fertilizer which is distributed into or within this state shall have attached to it or be accompanied by a label which states all of the following:

(1) Net weight or volume as required by law.

(2) Brand name and grade.

(3) Name and address of the licensed manufacturer.

(4) Guaranteed analysis statement which includes the following in the order listed:

(i)	Total Nitrogen (N)	%.
(ii)	_____% Ammoniacal Nitrogen (if present).	
(iii)	_____% Nitrate Nitrogen (if present).	
(iv)	_____% Water Soluble Organic Nitrogen (if present).	
(v)	_____% Water Insoluble Organic Nitrogen (if present).	
(vi)	Available phosphoric acid (P_2O_5)	%.
(vii)	Soluble potash (K_2O)	%.
(viii)	Potential acidity or basicity expressed as pounds of calcium carbonate equivalent per ton (optional).	
(ix)	Additional plant food elements which may be claimed, as prescribed by the director by regulation.	
(x)	The sources of all plant nutrients.	
(xi)	Weight per gallon for liquids when sold by volume.	

(b) When the name of a fertilizer material appears on the label of a mixed fertilizer, outside the required listing in the nutrient source list, the percentage of that ingredient present shall also appear on the label in print of the same size and color.

(c) When the name of a fertilizer material is used as a part of the name of a mixed fertilizer, as for example, blood, bone, or fish, the nitrogen or phosphoric acid shall be derived from or supplied entirely by the material named. When the name of a fertilizer material is used as a brand or as part of a brand and the nitrogen or

phosphoric acid is not supplied by the material named, the word "brand" shall follow the name of the material.

(d) When the director finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he thereafter may require by regulation that the "guaranteed analysis" for phosphorous and potassium shall be in the following form:

Available Phosphorus (P)	percent.
Soluble Potassium (K)	percent.

The effective date of such regulation shall not be less than six months following its issuance, and, for a period of two years following the effective date of the regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. However, after the effective date of any regulation issued under the provisions of this paragraph which requires that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

(e) The director may require proof of labeling statements and claims made for any commercial fertilizer. As evidence of proof, the director may rely on experimental data, evaluations, or advice furnished by scientists such as those of the University of California, and may accept or reject additional sources of proof. The director may disapprove a commercial fertilizer label if he determines adequate proof of label claims does not exist. The director, after hearing, may cancel the license or licenses of any licensee who distributes a commercial fertilizer under a disapproved label.

14592. (a) Every lot, parcel, or package of agricultural mineral which is distributed within this state shall have attached to it or be accompanied by a label which states all of the following:

(1) Product name, brand name, or trademark.

(2) Net weight or volume (for liquids) as required by law.

(3) Name and address of manufacturer or distributor.

(4) Listing of the ingredients.

(5) A guaranteed analysis statement showing the percentage of every constituent of agricultural value claimed to be in the product.

(6) Other information as may be required by the director pursuant to regulation.

(7) Weight per gallon for liquids when sold by volume.

(b) The terms "fertilizer," "plant food," or "nutrients" shall not be used to describe agricultural minerals.

14593. (a) Every package of soil amendment which is distributed within this state shall have attached to it or be accompanied by a label which states all of the following:

(1) The product name, brand name, or trademark.

(2) The net weight or volume as required by law.

(3) The name and address of the manufacturer or distributor.

(4) The purpose of the product.

(5) Such additional information as may be required by the director pursuant to regulation.

(b) No claim shall be made for chemical composition or nutritive constituents except as permitted or required in regulations issued by the director pursuant to this chapter.

14594. Every lot, parcel, or package of auxiliary soil and plant substance which is distributed in this state shall have attached to it, or be accompanied by, a label which states all of the following:

(a) The product name, brand name, or trademark.

(b) The net weight or volume as required by law.

(c) The name and address of the manufacturer or distributor.

(d) An accurate statement of the purpose of the product and directions for use.

(e) An accurate statement of composition showing the percent of each active ingredient and listing all ingredients in decreasing amounts present.

(f) The statement "not a plant food product" printed in capital letters in a prominent location on the label.

Article 9. Inspection, Sampling, and Analysis

14601. The director shall have free access at reasonable times to all premises or conveyances which are used in the manufacture, transportation, importation, distribution, storage, or application of any commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance.

14602. The director shall at such times and to such extent as necessary for the full enforcement of this chapter do all of the following:

(a) Take samples of any substance.

(b) Make analyses or examinations of any substance.

(c) Make investigations concerning the use, sale, adulteration, or misbranding of any substance.

14603. In determining the percentage of component parts of any substance for the purpose of proper labeling, registration, or determining compliance with representations, all analyses shall be made according to such method as may be determined by the director.

14604. The director shall publish, at least annually, the results of examinations or chemical analyses of official samples of commercial fertilizer and agricultural minerals, and such additional information as he may deem necessary.

14605. The director may take a sample for analyses from any lot of commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance which is in the possession of any producer, manufacturer, importer, agent, dealer, or user. The

sample shall be taken pursuant to regulations adopted by the director.

14606. The director by regulation shall establish sampling procedures.

14607. Upon the analysis of a sample of commercial fertilizer or agricultural mineral, soil amendment, or auxiliary soil and plant substance, the director shall issue a report showing the findings and indicating that the product has met the guarantee or was found to be deficient. However the director, in determining whether any product is deficient in guarantee or misrepresented, may establish, by regulation, tolerances that shall provide allowances for variations that occur in the taking, preparation, and analysis of an official sample.

14608. In any action, civil or criminal in any court in this state, a laboratory report from the director which states the results of any analysis, reported to be made pursuant to this chapter, shall be prima facie evidence of all of the following:

(a) That the sample which is mentioned in the laboratory report was properly analyzed.

(b) That such samples were taken pursuant to this chapter.

(c) That the substances analyzed contained the component parts which are stated in the laboratory report.

(d) That the samples were taken from the lots, parcels, or packages which are mentioned in the laboratory report.

Article 10. Violations

14611. (a) Any violation of any provisions of this chapter, or the regulations adopted pursuant to it, is a misdemeanor which is punishable by a fine of not more than five hundred dollars ($500) for the first violation and not less than five hundred dollars ($500) for each subsequent violation.

(b) The director may, after hearing, refuse to issue or renew, or may suspend or revoke a license or registration for any violation of this chapter or any regulation which is adopted pursuant thereto. Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. After the loss of a license or registration, the person so deprived has a right of appeal to the director.

14612. It is unlawful for any person to manufacture or distribute in this state any commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance without complying with the provisions of this chapter and the regulations which are adopted pursuant to it.

14613. The director may seize and hold any lot of commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance which he has reasonable cause to believe is in violation of the provisions of this chapter or the regulations adopted

pursuant to it.

14614. If the director seizes any lot of commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance, he shall immediately issue to the person that has control of such material a hold order or notice. He may affix to the lot or package of such material a warning tag which states that the lot is so held.

14615. Any lot of commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance for which a hold order or notice is issued shall be held by the person having control of such material and shall not be distributed or moved except under the specific directions of the director, pending final disposition pursuant to this chapter. This does not prevent the person having control of the material from inspecting any material so seized, nor from taking therefrom, in the presence of a person designated by the director, a reasonable sample for evidence.

14616. Upon demand of the person having control of the seized commercial fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance, at or prior to the time of the sampling by the director, the sample which is drawn shall be divided into two approximately equal parts, one part of which shall be sealed and given to the person in control of the product and one part of which shall be kept for analysis by the director.

14617. If the seized and held lot, as determined by the director's analysis, is not in violation, the director shall immediately release the seized and held lot and remove the hold order or tag.

14618. If the seized and held lot is found to be in violation, the director shall take either of the following actions:

(a) Continue to hold the lot until such time as requirements of this chapter have been complied with, at which time the lot shall be released.

(b) Issue orders for the disposal of the lot in a manner specified by the director.

14619. The person having control of a seized or held lot found to be in violation may appeal the result of analysis to the director in writing within fifteen days of receiving the notice of violation. Upon receipt of such appeal, the director shall take a further sample of the lot in question for analysis. The cost of sampling and analysis shall be at the expense of the person that requests the appeal sample. The findings from the appeal analysis are conclusive.

Article 11. Procedure for Prosecution

14621. In addition to the remedies provided in this chapter, the department may bring an action in superior court and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this chapter or the rules and regulations promulgated under this chapter. Any proceeding under the

provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The department shall not, however, be required to allege facts necessary to show or tending to show irreparable damage or loss. The court may require such acts or course of conduct as is necessary to effectuate the purpose of this chapter.

14622. Nothing in this chapter requires the director to report for prosecution or to institute injunction proceedings for any minor violation of this chapter whenever he believes that the public interest shall be adequately served by a suitable written notice of warning and compliance with such notice.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 574

An act to amend Section 10067 of, and to repeal Section 10064 of, the Health and Safety Code, relating to vital statistics.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 10064 of the Health and Safety Code is repealed.

SEC. 2. Section 10067 of the Health and Safety Code is amended to read:

10067. The county recorder and the local registrar of births and deaths, with the approval and under the supervision of the State Registrar and with the approval of the board of supervisors of any county or city and county by ordinance, may dispose of county and local registrar's records of births, deaths, and marriages for events which occurred subsequent to July 1, 1905, on file in the office of the county recorder providing that the original records are determined to be on file in the Office of the State Registrar.

If the local registrar or county recorder does not have copies of such records, he or she is hereby authorized to accept them from the county recorder or local registrar.

CHAPTER 575

An act to amend Section 11659 of the Insurance Code, relating to workers' compensation insurance.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 11659 of the Insurance Code is amended to read:

11659. Such approved form of policy, limited pursuant to Section 11657, shall not be otherwise limited except by indorsement thereon in accordance with a form prescribed by the commissioner or in accordance with rules adopted by the commissioner. Such indorsement form shall not be subject to Section 11658. Before prescribing such indorsement form or adopting such rule, the commissioner shall consult concerning it with the Workers' Compensation Appeals Board.

CHAPTER 576

An act to add Section 384.5 to the Penal Code, relating to forest products.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 384.5 is added to the Penal Code, to read:

384.5. (a) Except within the Counties of Santa Barbara, Ventura, Los Angeles, Orange, San Diego, San Bernardino, Riverside, and Imperial, any person who removes any minor forest products from the property where such products were cut and transports such products upon any public road or highway shall have in his or her possession a valid bill of sale for such products or a written permit issued by the owner of the property from which such products were removed authorizing such removal and transport. Any such permit or bill of sale shall include, but is not limited to, all of the following:

(1) The name, address, and signature of the landowner, and phone number, if available.

(2) The name, address, and signature of the permittee or purchaser.

(3) The amount, species, and type of minor forest products to be removed and transported.

(4) A description sufficient to identify the property from which

the minor forest products are to be removed.

(5) The date of issuance of the permit or bill of sale and the duration of the period of time within which the minor forest products may be removed.

(6) Such conditions or additional information which the landowner may impose or include.

Any permit for the removal of minor forest products from public lands that is issued by the United States Forest Service or the Bureau of Land Management is sufficient for the purposes of this subdivision, regardless of whether such permit conforms to the specific requirements as to content set forth in this subdivision.

For the purposes of this subdivision "minor forest products" means firewood, posts, shakeboards, shake and shingle bolts, or split products, in quantities exceeding 20 cubic feet in volume, and burlwood or stumps, in quantities of two or more.

(b) Violation of subdivision (a) is a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or by imprisonment in a county jail for not more than six months or by both such fine and imprisonment.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 577

An act to add Section 9853.5 to the Vehicle Code, relating to vessels, and making an appropriation therefor.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 9853.5 is added to the Vehicle Code, to read:

9853.5. Upon request, the department shall issue for any power-driven pleasure craft which is constructed of wood and which was constructed prior to December 31, 1942, a special plaque which identifies the craft as a vessel of historical interest. The provisions of this section shall apply to documented as well as undocumented vessels. The size, shape, and content of such plaque and its positioning on the vessel shall be determined by the department after consultation with the Department of Boating and Waterways;

provided, that such plaque shall be of a durable material and shall be no smaller than six inches in height and six inches in width. A reasonable fee, as determined by the department, sufficient to support the administration of such program, shall be charged for issuance of the plaque. The plaque shall be valid for the life of the vessel.

CHAPTER 578

An act to add Sections 68073.1 and 68073.2 to the Government Code, and to add Sections 1206.5 and 1206.6 to the Penal Code, relating to courts.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Sections 3, 5, and 7 of this act may be referred to as The Los Angeles County Court Act of 1980.

SEC 2. Sections 4, 6, and 8 of this act may be referred to as The San Francisco Court Act of 1980.

SEC. 3. Section 68073.1 is added to the Government Code, to read:

68073.1. (a) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Temporary Construction Fund or moneys borrowed against the Courthouse Temporary Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, until such time as the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Temporary Construction Fund or moneys borrowed against the Courthouse Temporary Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, or within the Downey Municipal Court District, until such time as the County of Los Angeles has fulfilled the requirements of subdivision (a) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, and at least eight million dollars ($8,000,000) on courthouse construction within the Los Cerritos Municipal Court District, and at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District.

(c) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(d) Notwithstanding any other provision of law, to assist the County of Los Angeles in the funding of courtroom construction, the Board of Supervisors of Los Angeles County shall establish in the county treasury a Courthouse Temporary Construction Fund into which shall be deposited one dollar ($1) for each parking case filed, two dollars ($2) for each nonparking infraction case filed, and five dollars ($5) for every other criminal case filed in every court in the county, from fines and bail forfeitures collected. Such deposits shall be made prior to any transfer pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund shall be payable only for courtroom construction as authorized in subdivision (a) and, after the requirement of subdivision (a) has been met, shall be payable only for courtroom construction as authorized in subdivision (b).

SEC. 4. Section 68073.2 is added to the Government Code, to read:

68073.2. Notwithstanding any other provision of law, to assist the City and County of San Francisco in the funding of courtroom construction, the Board of Supervisors of the City and County of San Francisco shall establish in the county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited one dollar ($1) for each parking case filed, two dollars ($2) for each nonparking infraction case filed, and five dollars ($5) for every other criminal case filed in every court in the county, from fines and bail forfeitures collected. Those deposits shall be made prior to any transfer pursuant to Section 1463 of the Penal Code. The moneys of the San Francisco Courthouse Temporary Construction Fund shall be payable only for courtroom construction.

SEC. 5. Section 1206.5 is added to the Penal Code, to read:

1206.5. (a) In the County of Los Angeles, in every criminal case where a fine is imposed, a surcharge shall be included in the fine as follows:

(1) One dollar in each parking case.

(2) Two dollars in each nonparking infraction case.

(3) Five dollars ($5) in every other case.

The judges of the county shall increase the bail schedule amounts as appropriate to reflect the surcharge provided for by this section.

(b) The surcharge imposed pursuant to subdivision (a) shall continue through and including either (1) the twentieth year after the initial calendar year in which the surcharge is collected or

(2) whatever period of time is necessary to repay any borrowings made by the county to expend the minimum sums on construction provided for in Section 68073.1 of the Government Code, whichever time shall be longer.

SEC. 6. Section 1206.6 is added to the Penal Code, to read:

1206.6. (a) In the City and County of San Francisco, in every criminal case where a fine is imposed, a surcharge shall be included in the fine as follows:

(1) One dollar ($1) in each parking case.

(2) Two dollars ($2) in each nonparking infraction case.

(3) Five dollars ($5) in every other case.

The judges of the county shall increase the bail schedule amounts as appropriate to reflect the surcharge provided for by this section.

(b) The surcharge imposed pursuant to subdivision (a) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected.

SEC. 7. Sections 3 and 5 of this act shall become operative upon the adoption of a resolution by the board of supervisors of the County of Los Angeles stating that the provisions of this act are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles.

SEC. 8. Sections 4 and 6 of this act shall become operative upon the adoption of a resolution by the Board of Supervisors of the City and County of San Francisco stating that the provisions of this act are necessary to the establishment of adequate courtroom facilities in the City and County of San Francisco.

CHAPTER 579

An act to amend Sections 25017, 25101, 25102, 25212, and 25232 of the Corporations Code, relating to securities.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 25017 of the Corporations Code is amended to read:

25017. (a) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Sale" or "sell" includes any exchange of securities and any change in the rights, preferences, privileges, or restrictions of or on outstanding securities.

(b) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(c) Any security given or delivered with, or as a bonus on account

of, any purchase of securities or any other thing constitutes a part of the subject of the purchase and is considered to have been offered and sold for value.

(d) A purported gift of assessable stock involves an offer and sale.

(e) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, includes an offer and sale of the other security only at the time of the offer or sale of the warrant or right or convertible security; but neither the exercise of the right to purchase or subscribe or to convert nor the issuance of securities pursuant thereto is an offer or sale.

(f) The terms defined in this section do not include: (1) any bona fide secured transaction in or loan of outstanding securities; (2) any stock dividend payable with respect to common stock of a corporation solely (except for any cash or scrip paid for fractional shares) in shares of such common stock, if the corporation has no other class of voting stock outstanding; provided, that shares issued in any such dividend shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued; or (3) any act incident to a transaction or reorganization approved by a state or federal court in which securities are issued and exchanged for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash.

SEC. 2. Section 25101 of the Corporations Code is amended to read:

25101. The following securities are exempt from the provisions of Section 25130:

(a) Any security issued by a person which is the issuer of any security listed on a national securities exchange certified by rule or order of the commissioner.

(b) Any security (except limited or general partnership interests) issued by a person which (i) is the issuer of any security listed on a national securities exchange which is not certified by the commissioner pursuant to subdivision (a) hereof, (ii) is the issuer of any security registered under Section 12(g) of the Securities Exchange Act of 1934 or is exempt from registration under such Section 12 by Section 12(g) (2) (G) of that act, or (iii) is registered under the Investment Company Act of 1940, if in any such case, there has been filed with the commissioner a notice in such form as the commissioner shall specify by rule setting forth the following:

(1) The name of the issuer, the date of its organization, and the jurisdiction under whose laws it is organized;

(2) The issuer's taxpayer identification number as assigned by the federal Department of Internal Revenue and, if applicable, the issuer's file number under the Securities Exchange Act of 1934 or the Investment Company Act of 1940 as assigned by the federal

Securities and Exchange Commission or other appropriate federal regulatory agency;

(3) A statement that the issuer has a currently effective registration under Section 12 of the Securities Exchange Act of 1934 (specifying the subsection thereof) or the Investment Company Act of 1940, or that it is exempt from registration under such Section 12 by Section 12(g) (2) (G) thereof;

(4) A statement that the issuer has a class of equity securities held by 500 or more persons and has total assets exceeding one million dollars ($1,000,000), determined in such manner as is provided by rule of the commissioner or, in the absence of such rule, in accordance with generally accepted accounting principles;

(5) A description of each security of the issuer which is to be exempted pursuant to this subdivision, and a statement that each class of common stock described in such notice, if any, possesses full voting rights equal per share to the voting rights possessed by any other class of common stock of the issuer;

(6) An undertaking to file a supplemental notice if any of the facts stated in the notice previously filed with the commissioner shall, to the knowledge of the filer of such notice, cease to be true.

(7) The name and address of the person filing the notice, the signature of such person or of the authorized principal officer of such person (and the name of such principal officer), and a verification to the best knowledge or belief of the person signing the notice of all of the information contained in such notice.

The notice provided for herein may be filed by the issuer, any broker-dealer registered under this law or any holder of record or beneficially of any of the securities covered by such notice. Except in the case of a notice filed by an issuer, the exemption provided by this subdivision shall lapse 13 months after the filing of the notice.

(c) The exemption provided by subdivision (a) or (b) of this section shall not apply to any of the following:

(1) Securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to the exemption afforded by Regulation A under such act if the aggregate offering price of the securities offered pursuant to such exemption exceeds fifty thousand dollars ($50,000);

(2) Securities which the commissioner has found, after notice and, if requested as hereinafter provided, hearing, to be the subject of a notice or supplemental notice filed pursuant to subdivision (b) which contains any statement which is, or which was at the time of filing, materially untrue. Notice hereunder shall be given to the person named pursuant to paragraph (7) of subdivision (b), to the issuer unless the notice or supplemental notice was filed by the issuer, and to licensed broker-dealers. The notice shall state the reasons for the issuance of the notice and that the exemption pursuant to this section for the security identified therein may be terminated unless, within 10 business days, either a notice or supplemental notice is filed in accordance with subdivision (b) or a

written request for hearing is received, such hearing to commence within 15 business days of the recepit of such notice unless the commissioner consents to a later date. An order terminating an exemption pursuant to this paragraph shall be effective when issued or at such time thereafter as the commissioner may provide.

(3) All securities of an issuer when the commissioner has found the issuer has ceased to have any securities registered under Section 12 of the Securities Exchange Act of 1934 or the issuer of which has ceased to have a class of equity securities held by 500 or more persons or total assets exceeding one million dollars ($1,000,000). An order may be issued under this paragraph without notice or hearing if the facts on which it is based are stated in a notice or supplemental notice filed pursuant to subdivision (b) or are stated in a certificate filed with the Securities and Exchange Commission pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934; otherwise, such order shall be issued only as provided in paragraph (2) of this subdivision.

SEC. 3. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to such offer if (1) the agreement contains substantially the following provision: "The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful. The rights of all parties to this agreement are expressly conditioned upon such qualification being obtained."; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of such securities is qualified under this law.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of such act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to such offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of such securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified, or exempt from qualification, at the time of distribution

thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale, in a transaction not involving any public offering, of any bona fide general partnership, joint venture or limited partnership interest, or any beneficial interest in a trust which is a "security" within the meaning of Section 25019, if in the case of such beneficial trust interests immediately after the sale and issuance they are owned by no more than five persons.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering.

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 10 persons, provided all of the following requirements have been met:

(1) All such stock shall be evidenced by certificates which shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule of the commissioner restricting transfer of such stock in such manner as the rule provides.

(2) The offer and sale of such stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(3) The consideration to be received by the issuer for the stock to be issued shall consist of (i) only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which all of the persons who are to receive the stock to be issued pursuant to this exemption were owners during, and such enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of such enterprise immediately prior to such proposed issuance was in the same proportions as the shares of stock are to be issued, or (ii) only cash or cancellation of indebtedness for money borrowed or both upon the initial organization of the issuer, provided all such stock is issued for the same price per share, or (iii) only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders, or (iv), in a case where after the proposed issuance there will be only one owner of the stock of the issuer, any legal consideration.

(4) No promotional consideration has been given, paid, or incurred in connection with such issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business

or enterprise of an issuer, for services rendered in connection with such founding or organizing.

(5) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of such member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. Such notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in such form as the commissioner by rule prescribes, appointing the commissioner or his successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation which has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued such stock.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for such trust

account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) such security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by such bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law which has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25110 or 25130.

SEC. 4. Section 25212 of the Corporations Code is amended to read:

25212. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, suspend for a period not exceeding 12 months or revoke the certificate of, any broker-dealer if the commissioner finds that such censure, denial, suspension, or revocation is in the public interest and that such broker-dealer, whether prior or subsequent to becoming such, or any partner, officer, director, or branch manager of such broker-dealer, whether prior or subsequent to becoming associated with such broker-dealer, or any person directly or indirectly controlling such broker-dealer, whether prior or subsequent to becoming such, or any agent employed by such broker-dealer while so employed:

(a) Has willfully made or caused to be made in any application for a certificate or in any report required to be filed with the commissioner under this law, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in any such application or report any material fact which is required to be stated therein; or

(b) Has been either (1) convicted of or has pled nolo contendere to a felony or misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon conduct showing moral turpitude, and the commissioner finds that any such felony, misdemeanor or civil action (i) involved the purchase or sale of any security, (ii) arose out of the conduct of the business of a broker-dealer or investment adviser, (iii) involved theft, or (iv) involved the violation of Section 1341, 1342 or 1343 of Title 18 of the United States Code; or

(c) Is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, or broker-dealer, or as an affiliated person or employee of any investment company, bank or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or

(d) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any other state denying registration to or revoking or suspending the registration of such person as a broker, dealer, agent or investment adviser or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities Exchange Act of 1934) suspending or expelling such person from membership in such association or exchange or from association with any member thereof; or

(e) Has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or Title 4 (commencing with Section 25000) of this code, including the Franchise Investment Law, Division 5 (commencing with Section 31000), or of any rule or regulation under any of such statutes; or

(f) Has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any of the statutes or rules or regulations referred to in subdivision (e) above, or has failed reasonably to supervise, with a view to preventing violations of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision; for the purposes of this subdivision, no person shall be deemed to have failed reasonably to supervise any person if (1) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and (2) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with; or

(g) Is subject to any currently effective order of the commissioner entered pursuant to Section 25213 revoking or suspending the certificate of such person as an agent.

SEC. 5. Section 25232 of the Corporations Code is amended to read:

25232. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, or suspend for a period not exceeding 12 months or revoke the certificate of, an investment adviser, if the commissioner finds that such censure, denial, suspension, or revocation is in the public interest and that such investment adviser, whether prior or subsequent to becoming such, or any partner, officer or director thereof or any person performing similar functions or any person directly or indirectly controlling such investment advisor, whether prior or subsequent to becoming such, or any employee of such investment adviser while so employed:

(a) Has willfully made or caused to be made in any application for a certificate or any report filed with the commissioner under this law, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in any such application or report any material fact which is required to be stated therein; or

(b) Has been either (1) convicted of or has pled nolo contendere to any felony or misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon conduct showing moral turpitude, and the commissioner finds that any such felony, misdemeanor or civil action (i) involved the purchase or sale of any security, (ii) arose out of the conduct of the business of a broker-dealer or investment adviser, (iii) involved theft, or (iv) involved the violation of Section 1341, 1342 or 1343 of Title 18 of the United States Code; or

(c) Is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter or broker-dealer or as an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security; or

(d) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any other state revoking or suspending his registration as an investment advisor or as a broker or dealer or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities Exchange Act of 1934) suspending or expelling him from membership in such association or exchange; or

(e) Has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or Title 4 (commencing with Section 25000) of this code, or of any rule or regulation under any of such statutes; or

(f) Has aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any statute or rule or regulation referred to in subdivision (e).

CHAPTER 580

An act to amend Section 68074 of the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 68074 of the Education Code is amended to read:

68074. A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

Should that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) be thereafter transferred on military orders to a place outside this state where the member continues to serve in the armed forces of the United States or (2) be thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may become operative as early as possible in the 1980–81 academic year, and so facilitate the orderly administration of student residency requirements, it is necessary that this act take effect immediately.

CHAPTER 581

An act to add Section 34315.7 to the Health and Safety Code, relating to housing.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 34315.7 is added to the Health and Safety Code, to read:

34315.7. Real property owned by an authority which the authority determines is not required for its foreseeable needs and which is not transferred pursuant to Section 34315.5, shall be disposed of for the following purposes, in descending order of priority:

(a) For the purposes, and in accordance with the provisions, of Article 10 (commencing with Section 50568) of Chapter 2 of Part 1 of Division 1 of Title 5 of the Government Code.

(b) To public, nonprofit, or private developers for development of housing for persons and families of low and moderate income, as defined by Section 50093. Such transfers may not be made at a cost below the housing authority's acquisition cost but may be made at a cost below market value if (1) not less than 30 percent of the housing units to be developed will be enforceably restricted for occupancy by persons and families of low and moderate income, with at least 50 percent of the housing units restricted to persons and families of low income, and (2) a transfer at below market value is necessary to assure that the housing units restricted for occupancy by persons and families of low or moderate income will be provided at affordable housing cost, as defined by Section 50052.5.

(c) To private developers, generally, at market value for development of housing.

(d) For any purpose, where the sale is at public auction to the highest bidder.

The Department of Housing and Community Development shall adopt regulations governing disposal of surplus real property of housing authorities pursuant to subdivisions (b) and (c). The regulations shall include requirements for providing public notice of a housing authority's intent to dispose of real property in accordance with this section and shall also specify other reasonable requirements to implement the priorities established by this section.

The deed or other instrument of conveyance shall recite that the authority has determined the property is not required for its foreseeable needs and it is being disposed of pursuant to this section and, if the property is disposed of pursuant to subdivision (b) or (c), in accordance with regulations adopted by the Department of Housing and Community Development. Such recital shall be conclusive in favor of purchasers and encumbrancers for value.

Failure to comply with the provisions of this section shall not invalidate any right, title or interest acquired by a purchaser or encumbrancer for value.

CHAPTER 582

An act to amend Section 3853 of the Labor Code, relating to workers' compensation.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 3853 of the Labor Code is amended to read:

3853. If either the employee or the employer brings an action against such third person, he shall forthwith give to the other a copy of the complaint by personal service or certified mail. Proof of such service shall be filed in such action. If the action is brought by either the employer or employee, the other may, at any time before trial on the facts, join as party plaintiff or shall consolidate his action, if brought independently.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 583

An act to add Section 12210.5 to the Business and Professions Code, relating to weights and measures.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 12210.5 is added to the Business and Professions Code, to read:

12210.5. Any county which inspects or tests any weighing or measuring device or instrument used commercially, at the request of the owner or user of such device, when such inspection or testing of the device could legally be performed by a registered repairman, may, if authorized by the county board of supervisors, collect from

the requesting owner or user thereof a fee.

Such fee shall be based upon a uniform schedule of fees, which shall be prescribed by the director for use by the counties. The director shall prepare the schedule of fees to be comparable with the rates charged by the industry's registered repairmen. All fees collected shall be credited to the general fund of the county in which collected and used only for the administration and enforcement of laws pertaining to weights and measures.

CHAPTER 584

An act to add Section 66787 to the Government Code, relating to solid waste.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 66787 is added to the Government Code, to read:

66787. (a) As used in this section, "local agency" means any county, city, city and county, special district authorized to collect and dispose of solid waste, or any joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 which is authorized to construct and operate a facility for the conversion of solid waste into energy, synthetic fuel, or reusable materials.

(b) A local agency may enter into one or more contracts for the design, construction, or operation of a facility for the conversion of solid waste into energy, synthetic fuel, or reusable materials, provided the construction of such facility conforms to the solid waste management plan approved pursuant to Section 66780. One contractor may be selected to perform the design, construction, and operation under one contract or separate contracts may be entered into with one or more contractors.

(c) Prior to awarding the contract, the local agency shall request proposals from qualified business entities. After evaluating the proposals, the local entity may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations.

If the local agency desires, the local agency may consider proposals only from those business entities which have previously submitted a statement of qualifications and information and have been deemed qualified to submit a proposal by the local agency.

(d) A facility designed, constructed, or operated pursuant to this section shall be eligible for financing with revenue bonds pursuant

to the Revenue Bond Law of 1941, as contained in Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5, or any other available source of financing.

(e) The powers conferred on local agencies in this section are in addition to any other power which may be possessed by the agencies.

CHAPTER 585

An act to amend Section 51283 of the Government Code, relating to land in agricultural preserves.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 51283 of the Government Code is amended to read:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the full cash value of the land as though it were free of the contractual restriction. The assessor shall multiply such value by the most recent county ratio announced pursuant to Section 401 of the Revenue and Taxation Code, and shall certify the product to the board or council as the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) Prior to giving tentative approval to the cancellation of any contract the board or council shall determine and certify to the county auditor the amount of the cancellation fee which the landowner must pay the county treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 50 percent of the cancellation valuation of the property; provided, however, if after the date the contract was initially entered into the publicly announced county ratio of assessed to full cash value is changed, the percentage payment in this subdivision shall be changed so no greater percentage of full cash value will be paid than would have been paid had there been no change in ratio.

(c) If they find that it is in the public interest to do so the board or council may waive any such payment or any portion thereof, or may make such payment or a portion thereof contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, provided:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner;

(2) The board or council has determined it is in the best interests of the program to conserve agricultural land use that such payment be either deferred or not required; and

(3) The waiver is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver if the secretary finds that the granting of the waiver by the local agency is consistent with the policies of this chapter and that the local agency complied with the provisions of this article. In evaluating a request for a waiver, the secretary shall review the findings of the board or council, the evidence in the record of the local agency, and any other evidence the secretary may receive concerning the cancellation or waiver.

(d) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the State Controller and be deposited in the State General Fund.

CHAPTER 586

An act to amend Section 19510.5 of the Business and Professions Code, relating to horseracing.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 19510.5 of the Business and Professions Code is amended to read:

19510.5. The board shall require applicants for a license as a steward to pass an examination on matters relating to the duties of stewards. Examinations shall be held at such times and places as may be determined by the board. Notice of the time and place of such examinations shall be given as determined by the board.

The board shall prepare both written and oral examinations to be taken by persons applying for qualification as stewards, requesting and taking into consideration suggestions from representatives of horsemen, association management, stewards, and other interested and knowledgeable groups. The written examinations may be administered by members of the board staff. Oral examinations shall be conducted by an oral examination panel to include at least two board members.

The board may admit to examination any person who is qualified as follows:

(a) Who has not been convicted of a crime involving moral turpitude or of a felony.

(b) Who has completed an accredited senior high school or its equivalent.

(c) Who has been given a physical examination by a licensed physician and surgeon within 60 days prior to the date of application

for the steward's examination, indicating 20–20 vision or vision corrected to 20–20, and normal hearing ability.

Stewards qualified through this section shall form pools from which the board will select the best qualified individuals for employment.

The board shall establish and administer a continuing training program for stewards.

Any person who has been licensed as a steward in California prior to January 1, 1980, shall be exempt from the written examination requirements of this section.

CHAPTER 587

An act to amend Sections 261, 262, 667.5, 1203.06, 1203.065, 1203.075, and 1203.09 of the Penal Code, relating to rape.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 261 of the Penal Code is amended to read:

261. Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

1. Where a person is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent.

2. Where it is accomplished against a person's will by means of force or fear of immediate and unlawful bodily injury on the person or another.

3. Where a person is prevented from resisting by any intoxicating, narcotic, or anaesthetic substance, administered by or with the privity of the accused.

4. Where a person is at the time unconscious of the nature of the act, and this is known to the accused.

5. Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce such belief.

SEC. 2. Section 262 of the Penal Code is amended to read:

262. (a) Rape of a person who is the spouse of a perpetrator is an act of sexual intercourse accomplished against the will of the spouse by means of force or fear of immediate and unlawful bodily injury on the spouse or another.

(b) The provisions of Section 800 shall apply to this section; however, there shall be no arrest or prosecution under this section unless the violation of this section is reported to a peace officer

having the power to arrest for a violation of this section or to the district attorney of the county in which the violation occurred, within 30 days after the day of the violation.

SEC. 3. Section 667.5 of the Penal Code is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior was one of the violent felonies specified in subdivision (c); provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in subdivision (2) of Section 261.

(4) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(5) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd acts on a child under 14 as defined in Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for such extraordinary crimes of violence against the person.

(d) For the purposes of this section the defendant shall be deemed to remain in prison custody for an offense until the official discharge from such custody or until release on parole whichever

first occurs including any time during which the defendant remains subject to reimprisonment for escape from such custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which if committed in California is punishable by imprisonment in state prison provided the defendant served one year or more in prison for such offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law provided the defendant served one year or more in prison for such offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after escape from such incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of such confinement.

(i) For the purposes of this section, a commitment to the State Department of Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

SEC. 4. Section 1203.06 of the Penal Code is amended to read:

1203.06. Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who personally used a firearm during the commission or attempted commission of any of the following crimes:

(i) Murder.

(ii) Assault with intent to commit murder, in violation of Section 217.

(iii) Robbery, in violation of Section 211.

(iv) Kidnapping, in violation of Section 207.

(v) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(vi) Burglary of the first degree, as defined in Section 460.

(vii) Except as provided in Section 1203.065, rape in violation of

subdivision (2) of Section 261.

(viii) Assault with intent to commit rape, the infamous crime against nature, or robbery, in violation of Section 220.

(ix) Escape, in violation of Section 4530 or 4532.

(2) Any person previously convicted of a felony specified in subparagraphs (i) through (ix) of paragraph (1), who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of his arrest for the subsequent felony.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(3) As used in subdivision (a) "used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, or to intentionally strike or hit a human being with it.

(4) As used in subdivision (a) "armed with a firearm" means to knowingly carry a firearm as a means of offense or defense.

SEC. 5. Section 1203.065 of the Penal Code is amended to read:

1203.065. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of violating subdivision (2) of Section 261, or Section 264.1, subdivision (b) of Section 288, or 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace or threat of great bodily harm.

(b) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person convicted of a violation of Section 220 for assault with intent to commit rape, sodomy, oral copulation or any violation of Section 264.1, subdivision (b) of Section 288, or Section 289.

When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(c) This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 6. Section 1203.075 of the Penal Code is amended to read:

1203.075. Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or

imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any person who, with the intent to inflict such injury, personally inflicts great bodily injury on the person of another in the commission or attempted commission of any of the following crimes:

(1) Murder.

(2) Assault with intent to commit murder, in violation of Section 217.

(3) Robbery, in violation of Section 211.

(4) Kidnapping, in violation of Section 207.

(5) Kidnapping for ransom, extortion or robbery, in violation of Section 209.

(6) Burglary of the first degree, as defined in Section 460.

(7) Rape in violation of subdivision (2) of Section 261.

(8) Assault with intent to commit rape, sodomy, or robbery, in violation of Section 220.

(9) Escape, in violation of Section 4530 or 4532.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(3) As used in subdivision (a), "great bodily injury" means "great bodily injury" as defined in Section 12022.7.

SEC. 7. Section 1203.09 of the Penal Code is amended to read:

1203.09. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who commits or attempts to commit one or more of the crimes listed in subdivision (b) against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, or a quadriplegic, and such disability is known or reasonably should be known to the person committing the crime; and who during the course of the offense inflicts great bodily injury upon such person.

(b) Subdivision (a) applies to the following crimes:

(i) Murder.

(ii) Assault with intent to commit murder, in violation of Section 217.

(iii) Robbery, in violation of Section 211.

(iv) Kidnapping, in violation of Section 207.

(v) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(vi) Burglary of the first degree, as defined in Section 460.

(vii) Rape by force or violence, in violation of subdivision (2) of Section 261.

(viii) Assault with intent to commit rape, sodomy, or robbery, in violation of Section 220.

(c) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) As used in this section "great bodily injury" means "great bodily injury" as defined in Section 12022.7.

(e) This section shall apply in all cases, including those cases where the infliction of great bodily injury is an element of the offense.

SEC. 8. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 588

An act to add Section 13143.8 to the Health and Safety Code, relating to fire safety.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 13143.8 is added to the Health and Safety Code, to read:

13143.8. In case of conflict between the State Fire Marshal and the local enforcement agency in the interpretation or application of the provisions, regulations, or building standards of the State Fire Marshal by local enforcement agencies as they pertain to community care facilities, upon request of the permittee or licensee of the community care facility, the State Fire Marshal shall notify the local enforcement agency in writing of the State Fire Marshal's interpretation, and if the local enforcement agency fails to apply the State Fire Marshal's interpretation, the State Fire Marshal shall conduct an adjudication hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2

of the Government Code before a hearing officer of the Office of Administrative Hearings, with the local enforcement agency as respondent, to resolve the conflict. The interpretation or application made by the hearing officer is binding on such local enforcement agency and the State Fire Marshal. The adjudication hearing shall be held within 30 days after the State Fire Marshal notifies the local enforcement agency of the interpretation, and a decision shall be rendered within 15 days of the hearing.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 589

An act to amend Section 4463 to the Vehicle Code, relating to vehicle ownership and registration.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 4463 of the Vehicle Code is amended to read:

4463. Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than one year:

(a) Alters, forges, counterfeits, or falsifies any certificate of ownership, registration card, certificate, license or special plate or permit provided for by this code or any comparable certificate of ownership, registration card, certificate, license or special plate or permit relating to motor vehicles provided for by any foreign jurisdiction, or alters, forges, counterfeits, or falsifies any such document or plate with intent to represent the same as issued by the department, or alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of ownership, or with fraudulent intent displays or causes or permits to be displayed or have in his possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of ownership, registration card, certificate, license or special plate or permit.

(b) Utters, publishes, passes, or attempts to pass, as true and

genuine, any false, altered, forged, or counterfeited matter listed in subdivision (a) knowing the same to be false, altered, forged, or counterfeited.

(c) Acquires, possesses, sells, or offers for sale a genuine or counterfeit vehicle manufacturer's serial or identification number plate.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 590

An act to amend Sections 15202, 15203, and 15204 of, and to add and repeal Section 15202 of, the Government Code, relating to the administration of justice.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 15202 of the Government Code is amended to read:

15202. A county which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the State Controller for reimbursement of the costs incurred by the county in excess of the amount of money derived by the county from a tax of five cents ($0.05) on each one hundred dollars ($100) on the property assessed for purposes of taxation within the county.

This section shall remain in effect only until July 1, 1981, and on such date is repealed.

SEC. 2. Section 15202 is added to the Government Code, to read:

15202. A county which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the State Controller for reimbursement of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county.

SEC. 3. Section 15203 of the Government Code is amended to read:

15203. If the county meets the conditions described in Section 15202 and applies to the State Controller for reimbursement

pursuant to that section, and the State Controller determines that the reimbursement meets the provisions of Section 15201, the State Controller shall request the Director of Finance to include any amounts necessary to fulfill the purposes of Section 15202 annually in a request for deficiency appropriation in augmentation of the emergency fund.

SEC. 4. Section 15204 of the Government Code is amended to read:

15204. The State Controller may establish rules and regulations to carry out the purposes of this chapter.

SEC. 5. Section 2 of this act, which adds Section 15202 to the Government Code, shall become operative on July 1, 1981.

CHAPTER 591

An act to amend Section 1989 of the Code of Civil Procedure, relating to witnesses.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 1989 of the Code of Civil Procedure is amended to read:

1989. A witness is not obliged to attend as a witness before any court, judge, justice, or any other officer, out of the county in which he resides, unless the distance is less than five hundred miles from his place of residence to the place of trial.

CHAPTER 592

An act to add Section 5015 to the Public Resources Code, relating to the state park system.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 5015 is added to the Public Resources Code, to read:

5015. (a) In recognition of the late Robert H. Meyer's many contributions to the growth and improvement of the state park system, the Corral Beach project is hereby renamed Robert H. Meyer Memorial State Beach; provided, however, that the Park and Recreation Commission may change the classification of the project

in accordance with Article 1.7 (commencing with Section 5019.50).

(b) Not later than January 15, 1981, the department shall alter all signs at, and in the vicinity of, the state beach to reflect the change of name required by this section. Thereafter, the department shall cause all directories and other publications concerning the state park system to reflect such name change as the publications are periodically revised.

CHAPTER 593

An act to amend Section 58604.5 of the Food and Agricultural Code, relating to marketing orders, and making an appropriation therefor.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 58604.5 of the Food and Agricultural Code is amended to read:

58604.5. "Advertising and sales promotion" also means, in addition to its ordinary accepted meaning, activities for the modification or removal of trade barriers that restrict the free flow of a commodity to market, including negotiation with federal and foreign governments, and the allowance of reimbursement payments to offset commodity transportation or other costs to foreign markets.

Domestic f.o.b. selling price shall not be used as a factor in determining qualifications for reimbursement payments unless the director determines that there is no feasible alternative for establishing such qualifications.

This section shall remain in effect only until May 31, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before May 31, 1986, deletes or extends such date.

CHAPTER 594

An act to amend Sections 441.16 and 442.10 of, to amend, repeal, and add Sections 441.15, 441.18, 442, 442.1, 442.3, and 442.4 to, and to add and repeal Sections 441.185 and 441.20 of, the Health and Safety Code, relating to health.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to provide data of adequate breadth and depth in order to test and demonstrate the extent to which the California Voluntary Effort (CVE) is effectively promoting the goal of cost containment in California health facilities.

SEC. 2. Section 441.15 of the Health and Safety Code is amended to read:

441.15. The commission, after consultation with the advisory council, receipt of the recommendations of the advisory council, and public hearings with respect thereto, shall, as soon as practicable after the effective date of this part, have prepared, published, and ready for distribution to all the health facilities subject to the provisions of this part approved systems of health facility accounting and uniform reporting which shall be structured so as to enable all such health facilities to fairly, accurately, and efficiently prepare the particular financial reports required by Sections 441.18 and 441.185. Existing systems of accounting and reporting used by health facilities shall be examined and given due consideration by the commission in carrying out its duty of preparing the systems of accounting and uniform reporting required by this section.

The commission, after receipt of the recommendations of the advisory council and public hearings with respect thereto, shall as soon as practicable on or after July 1, 1975, have prepared, published, and ready for distribution to all skilled nursing facilities and intermediate care facilities, approved systems of accounting and uniform reporting, which shall be structured so as to enable all such health facilities to fairly, accurately, and efficiently prepare the particular financial reports required by the commission. Existing systems of accounting and reporting used by skilled nursing facilities and intermediate care facilities shall be examined and given due consideration by the commission in preparing the systems of accounting and uniform reporting required by this section.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 2.5. Section 441.15 is added to the Health and Safety Code, to read:

441.15. The commission, after consultation with the advisory council, receipt of the recommendations of the advisory council, and public hearings with respect thereto, shall, as soon as practicable after the effective date of this part, have prepared, published, and ready for distribution to all the health facilities subject to the provisions of this part approved systems of health facility accounting and uniform reporting which shall be structured so as to enable all such health facilities to fairly, accurately, and efficiently prepare the particular financial reports required by Section 441.18. Existing systems of accounting and reporting used by health facilities shall be

examined and given due consideration by the commission in carrying out its duty of preparing the systems of accounting and uniform reporting required by this section.

The commission, after receipt of the recommendations of the advisory council and public hearings with respect thereto, shall have prepared, published, and ready for distribution to all skilled nursing facilities and intermediate care facilities, approved systems of accounting and uniform reporting, which shall be structured so as to enable all such health facilities to fairly, accurately, and efficiently prepare the particular financial reports required by the commission. Existing systems of accounting and reporting used by skilled nursing facilities and intermediate care facilities shall be examined and given due consideration by the commission in preparing the systems of accounting and uniform reporting required by this section.

This section shall become operative on January 1, 1985.

SEC. 3. Section 441.16 of the Health and Safety Code is amended to read:

441.16. (a) The commission where necessary to correctly reflect differences either (1) in size of; or (2) in scope, type, or method of provision of or payment for services rendered by health facilities; or where necessary to avoid unduly burdensome costs for such health facilities in meeting the requirements of this part as a result of such differences; shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems approved pursuant to Section 441.15 for use by health facilities in meeting the requirements of this part if such modifications will not interfere with the purposes established in Section 441.

(b) The commission shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. Such health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner which is consistent with the operating principles of such plans and with generally accepted accounting principles. When health facilities that receive the preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions, and as a group shall submit a consolidated balance sheet, income and expense statement and statement of source and application of funds for such group of health facilities; except, that cost data shall be reported for each individual institution.

The commission shall adopt comparable modifications to the financial reporting requirements of this part for county hospital systems consistent with the purposes of Section 441.

(c) The commission shall establish approved systems of health facility accounting, uniform reporting, and auditing to create, to the

extent feasible, one uniform, comprehensive state system which takes into account the data requirements of all state programs. The commission shall make available information required by other state agencies for programs they administer or in which they have an interest.

This section shall not preclude the state administrative agency responsible for administration of a program from obtaining from health care institutions data not available from the commission which the administrative agency determines is necessary for administration of the program. Administrative agencies shall use the comprehensive system provided for in this section to the maximum extent feasible.

SEC. 4. Section 441.18 of the Health and Safety Code is amended to read:

441.18. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the commission, within four months after the close of the organization's calendar or fiscal year for all annual accounting periods to which the systems of accounting and uniform reporting approved under Section 441.17 are made applicable thereby, all of the following reports on forms specified by the commission which shall be in accord with such systems of accounting and uniform reporting all of the following:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual period ending on the balance sheet date.

(c) A statement detailing the source and application of funds expended by the health facility for the period encompassed by the income statement required by subdivision (b).

(d) A statement reporting the information required in subdivisions (a), (b), and (c) of this section for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(e) A report of health facility expenditures which allocates the costs of non-revenue-producing departments of a health facility to the other non-revenue- and revenue-producing centers which they serve, similar to the "step-down" or "double-apportionment" methods of cost finding used in reporting health facility cost experience under Title XVIII of the Federal Social Security Act. Any health facility which participates in Title XVIII as a provider of health care services may elect to file the cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII in place of the report required by the commission under this subdivision.

(f) The report required by subdivision (e) shall be accompanied by an accurate and sufficiently detailed statistical report containing data taken from the health facility's basic accounts and patient statistics as maintained under one of the systems approved in

accordance with Section 441.17, which identifies costs related to categories, types or units of health care services delivered to patients by the operating departments of the health facility in accordance with a list of such services provided by the commission acting under the provisions of Section 441.15. Any health facility which participates in Title XVIII of the Federal Social Security Act may elect to file the statistical reports covering the provision of such health care services required under Title XVIII in place of the report required by the commission under this subdivision.

Health facilities described in subdivision (b) of Section 441.16 shall file such statements and reports, not inconsistent with subdivision (b) of Section 441.16, as the commission may reasonably require for the annual financial reporting period of such health facilities or group of health facilities.

On or before January 1, 1981, the commission, with the advice and consultation of the State Department of Health Services, shall adopt a single, uniform fiscal reporting document for long-term care facilities for use by the commission and the department.

(g) If federal regulations implementing subsection (a) of Section 19 of Public Law 95-142 relating to hospital reporting requirements for the Uniform Hospital Discharge Data Set (UHDDS) have not been adopted on or before July 1, 1981, every health facility for the first accounting year commencing on or after July 1, 1981, shall file a Hospital Discharge Abstract Data Record limited to all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Zip code.
(5) Admission date.
(6) Source of admission.
(7) Type of admission.
(8) Discharge date.
(9) Principal diagnosis.
(10) Principal procedure.
(11) Disposition of patient.
(12) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner.

A health facility shall annually file the Hospital Discharge Abstract Record not later than six months after the close of the facility's calendar or fiscal year. A health facility may submit the Hospital Discharge Abstract Record in a computer tape format, and a health facility may use coding from the International Coding of Diseases in reporting diagnoses and procedures.

When the discharge data reporting requirements of Public Law 95-142 are implemented, the requirements of the Hospital Discharge Abstract Data Record adopted by the commission pursuant to this subdivision shall cease to be effective and the requirements of the

federal regulations shall thereafter govern the data to be reported pursuant to this subdivision.

The commission shall adopt forms of authentication for use by health facility officers or licensed accountants preparing reports under this section stating that each such officer or accountant making the authentication believes that to the extent of his knowledge and information each statement in the report is true.

With the exception of hospital discharge abstract data, all reports required to be filed by the health facility with the commission shall be available for inspection by the public during regular working hours at the principal location of the health facility.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 4.5. Section 441.18 is added to the Health and Safety Code, to read:

441.18. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the commission, within four months after the close of the organization's calendar or fiscal year for all annual accounting periods to which the systems of accounting and uniform reporting approved under Section 441.17 are made applicable thereby, all of the following reports on forms specified by the commission which shall be in accord with such systems of accounting and uniform reporting all of the following:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual period ending on the balance sheet date.

(c) A statement detailing the source and application of funds expended by the health facility for the period encompassed by the income statement required by subdivision (b).

(d) A statement reporting the information required in subdivisions (a), (b), and (c) of this section for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(e) A report of health facility expenditures which allocates the costs of non-revenue-producing departments of a health facility to the other non-revenue- and revenue-producing centers which they serve, similar to the "step-down" or "double-apportionment" methods of cost finding used in reporting health facility cost experience under Title XVIII of the federal Social Security Act. Any health facility which participates in Title XVIII as a provider of health care services may elect to file the cost data reports required under the regulations of the federal Social Security Administration in its administration of Title XVIII in place of the report required by the commission under this subdivision.

(f) The report required by subdivision (e) shall be accompanied by an accurate and sufficiently detailed statistical report containing

data taken from the health facility's basic accounts and patient statistics as maintained under one of the systems approved in accordance with Section 441.17, which identifies costs related to categories, types or units of health care services delivered to patients by the operating departments of the health facility in accordance with a list of such services provided by the commission acting under the provisions of Section 441.15. Any health facility which participates in Title XVIII of the federal Social Security Act may elect to file the statistical reports covering the provision of such health care services required under Title XVIII in place of the report required by the commission under this subdivision.

Health facilities described in subdivision (b) of Section 441.16 shall file such statements and reports, not inconsistent with subdivision (b) of Section 441.16, as the commission may reasonably require for the annual financial reporting period of such health facilities or group of health facilities.

The commission shall adopt forms of authentication for use by health facility officers or licensed accountants preparing reports under this section stating that each such officer or accountant making the authentication believes that to the extent of his knowledge and information each statement in the report is true.

This section shall become operative on January 1, 1985.

SEC. 5. Section 441.185 is added to the Health and Safety Code, to read:

441.185. Beginning with the first calendar quarter of 1981, summary financial and utilization data shall be reported by each hospital within 45 days of the end of every calendar quarter. Adjusted reports reflecting changes as a result of audited financial statements may be filed within four months of the close of the hospital's fiscal or calendar year. The quarterly summary financial and utilization data shall conform to either the uniform description of accounts as contained in the commission's Accounting and Reporting Manual for California hospitals, as described in Section 7018 of Title 4 of the California Administrative Code, or to accounting systems developed pursuant to Section 7027 of Title 4 of the California Administrative Code and shall be limited only to the following:

(a) Number of licensed beds.
(b) Average number of available beds.
(c) Average number of staffed beds.
(d) Number of discharges.
(e) Number of inpatient days.
(f) Number of outpatient visits.
(g) Total operating expenses.
(h) Total inpatient gross revenues.
(i) Total outpatient gross revenues.
(j) Total deductions from revenues.
(k) Total capital expenditures.
(*l*) Total net fixed assets.

For the purpose of establishing a base period, health facilities shall

file reports for similar quarters from 1980 when reporting the calendar quarters of 1981. Hospitals reporting pursuant to Section 441.16 may provide the items in subdivisions (g), (h), (i), and (j) on a group basis, as described in subdivision (b) of Section 441.16.

The commission shall make available at cost, to all interested parties, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

The commission shall publish within 105 days of the close of every calendar quarter a preliminary report.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 6. Section 441.20 is added to the Health and Safety Code, to read:

441.20. A hospital that is a charitable research hospital is exempt from the provisions of subdivision (g) of Section 441.18 and Section 441.185.

For purposes of this section, "charitable research hospital" means a hospital that meets all the following criteria:

(a) Is internationally recognized as devoting itself primarily to medical research.

(b) Expends not less than 10 percent of its operating budget in each fiscal year exclusively on medical research activities which are not directly related to the provision of services to patients.

(c) Derives not less than one-third of its gross revenues in each fiscal year from contributions, donations, grants, gifts, or other gratuitous forms from individuals, groups, persons, or entities unrelated to the hospital. Contributions, donations, grants, gifts, or other gratuitous sources of revenue received as compensation for medical services provided patients shall not be considered for purposes of this subdivision.

(d) Accepts patients without regard to the patient's ability to pay for medical services.

(e) Not less than two-thirds of the patients admitted have a primary diagnosis or suspected disease or condition directly related to the specific area or areas in which the hospital conducts research. Patients admitted because of an emergent life-threatening condition who could not be safely transported to another hospital shall not be considered as patients for purposes of this section.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 7. Section 442 of the Health and Safety Code is amended to read:

442. (a) The commission shall maintain a file of all the reports filed under Sections 441.18, 441.185, and 442.1 at its Sacramento office. Subject to such rules as the commission may prescribe, such reports shall be produced and made available for inspection upon the demand of any person.

(b) Copies certified by the commission as being true and correct copies of reports properly filed with the commission pursuant to Sections 441.18 and 441.185, together with summaries, compilations, or supplementary reports prepared by the commission pursuant to Section 442.1, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made or taken by any state, county, or local governmental agency, board, or commission which participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each such state, county, or local governmental agency, board, or commission shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of such publicly financed programs.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 7.5. Section 442 is added to the Health and Safety Code, to read:

442. (a) The commission shall maintain a file of all the reports filed under Sections 441.18, 441.185, and 442.1 at its Sacramento office. Subject to such rules as the commission may prescribe, such reports shall be produced and made available for inspection upon the demand of any person.

(b) Copies certified by the commission as being true and correct copies of reports properly filed with the commission pursuant to Section 441.18, together with summaries, compilations, or supplementary reports prepared by the commission pursuant to Section 442.1, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission which participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each such state, county, or local governmental agency, board, or commission shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of such publicly financed programs.

This section shall become operative on January 1, 1985.

SEC. 8. Section 442.1 of the Health and Safety Code is amended to read:

442.1. In addition to its other responsibilities under the provisions of this part, the commission shall prepare and file such summaries, compilations, or other supplementary reports based on the information filed with the commission pursuant to Sections 441.18 and 441.185 as it determines will advance the purposes of this part. All such summaries, compilations, and reports shall be open to public

inspection and shall be made available to public agencies in accord with the provisions of Section 442 of this part.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 8.5. Section 442.1 is added to the Health and Safety Code, to read:

442.1. In addition to its other responsibilities under the provisions of this part, the commission shall prepare and file such summaries, compilations, or other supplementary reports based on the information filed with the commission pursuant to Section 441.18 as it determines will advance the purposes of this part. All such summaries, compilations, and reports shall be open to public inspection and shall be made available to public agencies in accord with the provisions of Section 442 of this part.

This section shall become operative on January 1, 1985.

SEC. 9. Section 442.3 of the Health and Safety Code is amended to read:

442.3. Any health facility which does not file any report required by Sections 441.18 and 441.185 with the commission as provided therein is liable for a civil penalty of one hundred dollars ($100) a day to be assessed and recovered in a civil action brought in the name of the people of the State of California by the commission for each day the filing of such report with the commission is delayed, unless an extension is granted in accord with the guidelines and procedures established by the commission pursuant to Section 442.4. Any money which is received by the commission pursuant to this section shall be paid into the commission's operating fund which is established by Section 442.10.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 9.5. Section 442.3 is added to the Health and Safety Code, to read:

442.3. Any health facility which does not file any report required by Section 441.18 with the commission as provided therein is liable for a civil penalty of one hundred dollars ($100) a day to be assessed and recovered in a civil action brought in the name of the people of the State of California by the commission for each day the filing of such report with the commission is delayed, unless an extension is granted in accord with the guidelines and procedures established by the commission pursuant to Section 442.4. Any money which is received by the commission pursuant to this section shall be paid into the commission's operating fund which is established by Section 442.10.

This section shall become operative on January 1, 1985.

SEC. 10. Section 442.4 of the Health of Safety Code is amended to read:

442.4. The commission shall, by regulation, establish guidelines

and procedures to enable all health facilities subject to the provisions of this part to request reasonable extensions of time in which to file any or all of the reports required by Sections 441.18 and 441.185. The regulations shall provide for the grant of such extensions by the executive director in cases where the health facility requesting them can show good and sufficient cause for the extension.

Any health facility denied an extension under this section may petition the commission for a hearing on appeal to review the action of the executive director in refusing its request for the extension in accord with the provisions of Section 442.5; but the filing of a petition pursuant to that section shall not, unless the appeals committee reverses the executive director, limit the continued accrual of the charges levied under this section against a health facility which fails to meet the deadline for filing reports established by Sections 441.18 and 441.185.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 10.5. Section 442.4 is added to the Health and Safety Code, to read:

442.4. The commission shall, by regulation, establish guidelines and procedures to enable all health facilities subject to the provisions of this part to request reasonable extensions of time in which to file any or all of the reports required by Section 441.18. The regulations shall provide for the grant of such extensions by the executive director in cases where the health facility requesting them can show good and sufficient cause for the extension.

Any health facility denied an extension under this section may petition the commission for a hearing on appeal to review the action of the executive director in refusing its request for the extension in accord with the provisions of Section 442.5; but the filing of a petition pursuant to that section shall not, unless the appeals committee reverses the executive director, limit the continued accrual of the charges levied under this section against a health facility which fails to meet the deadline for filing reports established by Section 441.18.

This section shall become operative on January 1, 1985.

SEC. 11. Section 442.10 of the Health and Safety Code is amended to read:

442.10. The California Hospital Commission Fund is hereby renamed the California Health Facilities Commission Fund. For the purposes of funding such contracts of the commission as are authorized by the provisions of this part and for meeting the costs of the commission in carrying out its duties in the administration thereof, fees shall be collected by the commission as follows and shall be deposited in the California Health Facilities Commission Fund which is hereby established:

(a) The commission shall set, and charge to, and collect from all health facilities a special fee, which shall be due on July 1 and delinquent on July 31 of each year, of not more than 0.05 of 1 percent,

with respect to skilled nursing facilities and intermediate care facilities, and not more than 0.024 of 1 percent, with respect to other health facilities, of the health facility's gross operating cost for the provision of health care services for its last fiscal year which ended on or before December 31 of the preceding calendar year. Each year the commission shall establish the fee to produce revenues equal to the appropriation for these purposes in the Budget Act for the current fiscal year.

(b) Any amounts raised by the collection of the special fees provided for by subdivision (a) which are not required to meet appropriations in the Budget Act for the current fiscal year shall be available to the commission in succeeding years, when appropriated by the Legislature, for expenditure under the provisions of this part and shall reduce the amount of such special fees which the commission is authorized to set and charge.

(c) No health facility against which the fees required by this section are charged shall be issued a license or have an existing license renewed unless the fees are paid. The commission may bring an action to enjoin the violation or threatened violation of this subdivision in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this subdivision shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except the commission shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

SEC. 12. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

CHAPTER 595

An act to amend Sections 5071.7 and 25482 of, to repeal Article 7 (commencing with Section 5080) of Chapter 1 of Division 5 of, the Public Resources Code, relating to transportation.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 5071.7 of the Public Resources Code is amended to read:

5071.7. (a) In planning the system, the director shall consult with

and seek the assistance of the Department of Transportation. The Department of Transportation shall plan and design those trail routes that are in need of construction contiguous to state highways and serve both a transportation and a recreational need.

The Department of Transportation shall install or supervise the installation of signs along heritage corridors consistent with the plan element developed pursuant to this section and Section 5073.1; provided, however, that it shall neither install nor supervise the installation of such signs until it determines that it has available to it adequate volunteers, funds, or a combination thereof, to install or supervise the installation of such signs, or until the Legislature appropriates sufficient funds for such installation or supervision of installation, whichever occurs first.

(b) The element of the plan relating to boating trails and other segments of the system which are oriented to waterways shall be prepared and maintained by the Department of Boating and Waterways pursuant to Article 2.6 (commencing with Section 68) of Chapter 2 of Division 1 of the Harbors and Navigation Code. Such segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1273 of the Statutes of 1968, and shall be planned so as to be consistent with the preservation of rivers of the California Wild and Scenic Rivers System, as provided in Chapter 1.4 (commencing with Section 5093.50) of this division.

(c) In planning the system, the director shall consult with and seek the assistance of the Department of Rehabilitation to assure that adequate provision is made for the use of recreational trails, including heritage corridors by physically disabled persons.

SEC. 2. Article 7 (commencing with Section 5080) of Chapter 1 of Division 5 of the Public Resources Code is repealed.

SEC. 3. Section 25482 of the Public Resources Code is amended to read:

25482. All state agencies shall provide assistance to their employees living in metropolitan areas in establishing carpools and locating potential carpool participants. The department shall be responsible for coordinating these efforts.

CHAPTER 596

An act to add Chapter 9.6 (commencing with Section 6260) to Title 7 of Part 3 of the Penal Code, relating to corrections.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Chapter 9.6 (commencing with Section 6260) is added to Title 7 of Part 3 of the Penal Code, to read:

CHAPTER 9.6. WORK FURLOUGH PROGRAMS

6260. The Legislature finds and declares the following: that overcrowding in correctional institutions is not a desirable method of housing state inmates; that other methods of housing should be developed for appropriate state inmates, particularly if they can be less costly; that reentry programs for inmates who are nearing the completion of their term of incarceration provides a more normal environment and an opportunity to begin reintegrating into society; and that work furlough programs are appropriate only for specified types of inmates for a limited period of time prior to release back into society; and that existing law already recognizes the appropriateness of placing inmates in community facilities.

6261. (a) To the extent that public and private nonprofit and profit corporations have available beds and satisfy the criteria specified in this chapter, the Department of Corrections shall contract with them to provide reentry work furlough programs for all inmates 90 days prior to scheduled release and who are not excluded under the provisions of this chapter.

(b) The Department of Corrections shall contract with private nonprofit and profit corporations for at least ⅓ of all reentry work furlough beds, unless the department determines these beds are not available or do not comply with this chapter. The department shall report annually in writing to the fiscal and appropriate policy committees of the Legislature of the actions performed to locate such beds or reasons for noncompliance. This provision shall not be interpreted to impair existing contracts.

6262. The Department of Corrections may contract with a public or private nonprofit or profit corporation meeting all the following conditions·

(a) Availability of a work furlough facility in compliance with standards established by the Department of Corrections.

(b) Location of a facility in proximity to geographical areas providing employment opportunities and public transportation services.

(c) Cost proposals equal to or less than the per capita amount for housing in a correctional institution, including administrative costs.

(d) Criteria for placement that does not differ significantly from the policies of the Department of Corrections.

(e) Submission by the agency of operational guidelines that are approved by the Department of Corrections pursuant to its classification manual.

(f) Compliance with other requirements deemed appropriate by the Department of Corrections, including, but not limited to, visiting

procedures, 24-hour security, and recreation.

(g) Efficient fiscal management and financially solvent.

6263. (a) The Department of Corrections shall deny placement in a reentry work furlough program if it determines that an inmate would pose an unreasonable risk to the public, or if any one of the following factors exist, except in unusual circumstances, including, but not limited to, the remoteness in time of the commission of the offense.

(1) Conviction of a crime involving sex or arson.

(2) History of forced escape, or of drug use, sales, or addiction.

(3) Parole program or employment outside the area served by the facility.

(4) History of serious institutional misconduct.

(5) Prior placement in a protective housing unit within a correctional institution, except a person placed there while assisting a public entity in a civil or criminal matter.

(6) More than one conviction of a crime of violence.

(b) Nothing in this section shall be interpreted to limit the discretion of the Department of Corrections to deny placement when the provisions of subdivision (a) do not apply.

6264. The Department of Corrections shall review each inmate for work furlough consideration at least 120 days prior to his or her scheduled parole date.

6265. Any inmate violating the conditions of the work furlough prescribed by the Department of Corrections shall be subject to the disciplinary procedures identified in its classification manual.

CHAPTER 597

An act to amend Section 739 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities, the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic

differences, by differences in severity of climate, and by season.

(b) The commission shall also develop a schedule which designates a lifeline volume of gas and a lifeline quantity of electricity necessary to supply the minimum energy needs of customers dependent on life support equipment, including, but not limited to, emphysema and pulmonary patients. A customer dependent on life support equipment shall be given a higher energy allocation than the average residential user in accordance with the type of equipment that he or she uses. Consideration shall be given to the energy requirements of the specific type of equipment used and the frequency and duration of its usage.

"Life support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment", as used in this subdivision, includes the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The schedule shall also include a higher lifeline energy allocation for paraplegic and quadriplegic persons than for the average residential user, in consideration of the increased heating needs of these persons.

The schedule shall also include a higher lifeline energy allocation for multiple sclerosis patients than for the average residential user, in consideration of the increased heating and cooling needs of these persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing lifeline rates. The lifeline rates shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rates until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(d) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) or (b) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(e) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale.

(f) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

CHAPTER 598

An act to amend Section 35541.9 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 35541.9 of the Health and Safety Code is amended to read:

35541.9. The Housing Authority of the City of Pleasanton need not demolish the temporary housing project in its jurisdiction commonly known as "Komandorski Village" until January 1, 1984.

The Legislature finds and declares that Komandorski Village, located in Pleasanton Township, Alameda County, has been maintained as reasonably safe and sanitary places in which to live, and that the voters of the area have approved construction of 150 low-income housing units in an election held pursuant to Article XXXIV of the Constitution of the State of California.

The Legislature further finds and declares that the provisions of this section are intended to aid in relieving a critical shortage of low-rental housing in the eastern portion of Alameda County for members of low-income families and low-income military families, and that removal of Komandorski Village before said date would place an extreme hardship on these people.

The Legislature further finds and declares that the Housing Authority of the City of Pleasanton has obtained funding for replacement units from the United States Department of Housing and Urban Development and plans to commence construction on or before December of 1980 and that such units will be ready for occupancy on or before the date established by this section for demolition of Komandorski Village.

This section shall not be construed to relieve any governmental agency of any existing duty under the present housing program.

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

In order to assure that sufficient advance notice is given to the Housing Authority of the City of Pleasanton regarding the Legislature's intent to permit occupancy of Komandorski Village beyond January 1, 1981, it is necessary that this act be enacted, and go into effect immediately, as an urgency statute.

CHAPTER 599

An act to add Section 1209 to the Penal Code, relating to sentences.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 1209 is added to the Penal Code, to read:

1209. Upon conviction of any criminal offense for which the court orders the confinement of a person in the county jail, or other suitable place of confinement, either as the final sentence or as a condition of any grant of probation, and allows the person so sentenced to continue in his or her regular employment by serving the sentence on weekends or similar periods during the week other than their regular workdays and by virtue of this schedule of serving the sentence the prisoner is ineligible for work furlough under Section 1208, the county may collect from the prisoner according to the prisoner's ability to pay so much of the costs of administration of this section as are allocable to such prisoner. The amount of this fee shall not exceed the actual costs of such confinement and shall be collected upon completion of each weekly period of confinement until the entire sentence has been served, and the funds deposited in the county treasury pursuant to county ordinance. The court, upon allowing sentences to be served on weekends or other nonemployment days, and upon finding that the prisoner has the ability to pay all or a part of the costs of administration without resulting in unnecessary economic hardship to the defendant and his or her dependents, shall advise each person of the provisions of this section and order them to pay such fee as required by the sheriff, probation officer, or Director of the County Department of Corrections, whichever the case may be.

CHAPTER 600

An act to amend Section 675 of the Code of Civil Procedure, to amend Section 8048 of, and to repeal Section 8052 of, the Fish and Game Code, to amend Sections 6103.8, 7220, 7221, 7227, and 27282 of, and to add Chapter 14 (commencing with Section 7150) to Division 7 of Title 1 of, the Government Code, to amend Sections 3356, 3423, 3423.6, 3768, 3772, and 3772.6 of, and to repeal Sections 3423.8 and 3772.8 of, the Public Resources Code, to amend Sections 6702, 6711, 6756, 6757, 6776, 7851, 7872, 7881, 8952, 8996, 9001, 16063, 16063.5, 16065, 16071, 18831, 18881, 18886, 18933, 26161, 26251, 26312, 30301, 30311, 30321, 30322, 30341, 32363, 32365, 32381, 32386, 38502, 38511, 38531, 38532, and 38541 of, to add Sections 6740, 18866, 18867, 18868, 18869, and 32364 to, and to repeal Sections 6758, 6758.5, 6759, 7873,

7873.5, 8997, 8997.5, 16066, 16067, 18884, 18884.5, 18885, 18888, 26162, 26162.5, 30323, 30323.5, 30324, 38533, 38534, 38535, and 38536 of, the Revenue and Taxation Code, to amend Sections 1702, 1703, 1755, 1785, 1815, and 1852 of, to add Section 1817 to, and to repeal Sections 1704, 1704.5, and 1705 of, the Unemployment Insurance Code, relating to state tax liens.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 675 of the Code of Civil Procedure is amended to read:

675. (a) Satisfaction of a judgment may be entered upon an execution returned satisfied, or upon an acknowledgment of satisfaction filed with the clerk or with the judge, if there be no clerk, which may recite payment of the judgment in full or the acceptance by the judgment creditor of any lesser sum in full satisfaction thereof, made in the manner of an acknowledgment of a conveyance of real property, by the judgment creditor or assignee of record, or by endorsement by judgment creditor or assignees of record on the face, or on the margin of the record of the judgment, or by the attorney, unless a revocation of his authority is filed. Whenever a judgment is satisfied in fact, otherwise than upon an execution, the party or attorney must give such acknowledgment, or make such endorsement, and, upon motion, the court may compel it, or may order the entry of satisfaction to be made without it.

In the superior, municipal, and justice courts such entry shall be made in the register of actions.

(b) Except in cases where demand has been made pursuant to subdivision (c), when an abstract of the judgment has been recorded with the recorder of any county, acknowledgment of satisfaction thereof by execution or other means shall be filed in the manner provided in subdivision (a) and either personally delivered, or sent by first-class mail, postage prepaid to the judgment debtor or his attorney by the judgment creditor or assignee not later than 30 days after the judgment has been in fact paid in full. Such acknowledgment shall identify the county in which the abstract has been recorded and the book and page of the official records thereof, and contain a statement that such acknowledgment will have to be recorded in such county in order to release the judgment lien. Such acknowledgment shall also show the full name of the judgment debtor being released and shall identify the judgment debtor as such. The judgment debtor's name shall appear on the acknowledgment as it appears on the abstract of judgment. Any such judgment creditor or assignee of record who fails without just cause to file or deliver such acknowledgment of satisfaction shall be liable to the judgment debtor or to the owner of the real property, as the case may

be, or his grantees or heirs, for all damages which he or they may sustain by reason of such failure, and shall also forfeit to him or them the sum of one hundred dollars ($100).

(c) Any judgment creditor or assignee who, for a period of 15 days after actual receipt of a demand in writing for acknowledgment of satisfaction of judgment, which demand is made after the judgment has in fact been paid in full, refuses without just cause to execute, acknowledge and deliver such acknowledgment of satisfaction to the judgment debtor, or to the owner of the real property upon which the judgment has become a lien by reason of the recording of an abstract of a judgment in accordance with Section 674, is liable to the judgment debtor or to the owner of the real property, as the case may be, or his grantees or heirs, for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to him or them the sum of one hundred dollars ($100).

(d) Any judgment creditor or assignee who intentionally conditions the delivery of an acknowledgment of satisfaction of judgment upon the performance of any act or the payment of any amount by a judgment debtor in excess of that to which the judgment creditor or assignee is entitled pursuant to the judgment, shall be liable to the judgment debtor or his grantees or heirs, for all damages sustained by reason of such action, but in no event shall this be less than two hundred fifty dollars ($250).

This subdivision shall not apply where a judgment creditor or assignee has agreed to deliver an acknowledgment of satisfaction of judgment to the judgment debtor prior to full satisfaction of the judgment in consideration for the judgment debtor having agreed either to furnish security or to execute a promissory note, or both, the principal amount of which does not exceed that to which the judgment creditor or assignee is entitled pursuant to the judgment.

(e) Where an abstract of judgment has been recorded which appears to create a judgment lien against property of a person who is not the judgment debtor, because the name of the property owner is the same or similar to that of the true judgment debtor, the erroneously identified property owner has the following remedies:

(1) The judgment creditor or assignee, within 15 days after actual receipt of a demand in writing made by the erroneously identified property owner and upon presentation of proof to the satisfaction of the judgment creditor or assignee that such property owner is not the true judgment debtor, shall prepare and deliver a recordable document releasing the lien against that person's property. If the judgment creditor or assignee fails to make such release he shall be liable to that person for all damages sustained by reason of such refusal, and shall also forfeit to him one hundred dollars ($100).

(2) If after demand the judgment creditor or assignee fails to prepare and deliver a recordable document releasing the lien, the erroneously identified property owner may make a motion in court, and upon presentation of evidence to the satisfaction of the court that such property owner is not the true judgment debtor, the court

shall compel the preparation and delivery of the document described in paragraph (1), or shall itself order the release of the judgment lien.

(f) In any action maintained pursuant to subdivision (b), (c), (d), or (e) the court shall award reasonable attorney's fees to the prevailing party.

(g) The damages provided for in this section are not in derogation of any other damages or penalties to which an aggrieved person may be entitled by law.

SEC. 2. Section 8048 of the Fish and Game Code is amended to read:

8048. (a) If any person operating under a license issued pursuant to this article fails to pay any privilege tax imposed under this article at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section only, "due and payable" means the date a return is required to be filed, without regard to any extension of time, without payment of the amount due or the date a determination or assessment made under this article becomes final, whichever is applicable.

SEC. 3. Section 8052 of the Fish and Game Code is repealed.

SEC. 3.5. Section 6103.8 of the Government Code is amended to read:

6103.8. (a) Sections 6103 and 27383 do not apply to any fee or charge for recording full releases executed or recorded pursuant to Section 7174 of the Government Code, Sections 4608 and 5003.7 of the Public Resources Code, and Sections 2194, 11496, 12494, and 32362 of the Revenue and Taxation Code, where there is full satisfaction of the amount due under the lien which is released.

(b) The fee for recording full releases listed in subdivision (a) shall be six dollars ($6).

(c) In the case of full releases recorded by the state taxing agency pursuant to Section 7174 of the Government Code, the recording agency shall be billed quarterly or, at the option of the agency, at more frequent intervals. All billing shall refer to the agency certificate number of the recorded releases.

(d) The fee for recording full releases for any document relating to an agreement to reimburse a county for public aid granted by the county shall be six dollars ($6).

(e) The fee for filing any release of judgment which was in favor of a government agency and recorded pursuant to Section 6103 or 27383 shall be six dollars ($6).

SEC. 4. Chapter 14 (commencing with Section 7150) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 14. STATE TAX LIENS

Article 1. Definitions

7150. Unless the context otherwise requires, the words and phrases defined in this article govern the construction of this chapter.

7150.5. "Agency" means:

(a) The Department of Fish and Game with respect to a state tax lien created under Section 8048 of the Fish and Game Code.

(b) The Director of Employment Development with respect to a state tax lien created under Section 1703 of the Unemployment Insurance Code.

(c) The Franchise Tax Board with respect to a state tax lien created under Section 18881 or 26161 of the Revenue and Taxation Code.

(d) The State Board of Equalization with respect to a state tax lien created under Section 6757, 8996, 30322, 32363, or 38532 of the Revenue and Taxation Code.

(e) The Controller with respect to a state tax lien created under Section 3423 or 3772 of the Public Resources Code or Section 7872 or 16063 of the Revenue and Taxation Code.

7151. "Bona fide purchaser" has the same meaning as defined in Section 8302 of the Commercial Code.

7152. "Buyer in ordinary course of business" has the same meaning as defined in Section 1201(9) of the Commercial Code.

7153. "Chattel paper" has the same meaning as defined in Section 9105(1)(b) of the Commercial Code.

7154. "Deposit account" has the same meaning as defined in Section 9105(1)(e) of the Commercial Code.

7155. "Duly negotiated" has the same meaning as defined in Section 7501 of the Commercial Code.

7156. "Holder in due course" has the same meaning as defined in Section 3302 of the Commercial Code.

7157. "Instrument" has the same meaning as defined in Section 9105(1)(i) of the Commercial Code.

7158. "Personal property" includes both tangible and intangible personal property.

7159. "Purchase money security interest" has the same meaning as defined in Section 9107 of the Commercial Code.

7160. "Real property" includes any rights in real property.

7161. "Security" has the same meaning as defined in Section 8102 of the Commerical Code.

7162. "State tax lien" means a lien created pursuant to Section 8048 of the Fish and Game Code, Section 3423 or 3772 of the Public Resources Code, Section 6757, 7872, 8996, 16063, 18881, 26161, 30322, 32363, or 38532 of the Revenue and Taxation Code, or Section 1703 of the Unemployment Insurance Code.

7163. "Tax" means a liability for which a state tax lien has been

created.

7164. "Taxpayer" means the person liable for the tax.

Article 2. State Tax Liens

7170. (a) Except as provided in subdivisions (b) and (c), a state tax lien attaches to all property and rights to property whether real or personal, tangible or intangible, including all after-acquired property and rights to property, belonging to the taxpayer and located in this state.

(b) A state tax lien is not valid as to real property against the right, title, or interest of any of the following persons where the person's right, title, or interest was acquired or perfected prior to recording of the notice of state tax lien in the office of the county recorder of the county in which the real property is located pursuant to Section 7171:

(1) A successor in interest of the taxpayer without knowledge of the lien.

(2) A holder of a security interest.

(3) A mechanic's lienor.

(4) A judgment lien creditor.

(c) A state tax lien is not valid as to personal property against:

(1) The holder of a security interest in the property whose interest is perfected pursuant to Section 9303 of the Commercial Code prior to the time the notice of the state tax lien is filed with the Secretary of State pursuant to Section 7171.

(2) Any person (other than the taxpayer) who acquires an interest in the property under the law of this state without knowledge of the lien or who perfects an interest in accordance with the law of this state prior to the time that the notice of state tax lien is filed with the Secretary of State pursuant to Section 7171.

(3) A buyer in ordinary course of business who, under Section 9307 of the Commercial Code, would take free of a security interest created by the seller.

(4) Any person (other than the taxpayer) who, notwithstanding the prior filing of the notice of the state tax lien:

(A) Is a holder in due course of a negotiable instrument.

(B) Is a holder to whom a negotiable document of title has been duly negotiated.

(C) Is a bona fide purchaser of a security.

(D) Is a purchaser of chattel paper or an instrument who gives new value and takes possession of the chattel paper or instrument in the ordinary course of business.

(E) Is a holder of a purchase money security interest.

(F) Is a collecting bank holding a security interest in items being collected, accompanying documents and proceeds, pursuant to Section 4208 of the Commercial Code.

(G) Acquires a security interest in a deposit account or in the beneficial interest in a trust or estate.

(H) Acquires any right or interest in letters of credit, advices of credit, or money.

(I) Acquires without actual knowledge of the state tax lien a security interest in or a claim in or under any policy of insurance including unearned premiums.

(J) Acquires any right or interest in property subject to a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate of title is required as a condition of perfection of the security interest.

7170.5. Notwithstanding Section 7170, as between competing state tax liens or as between a state tax lien and a federal lien described in Section 2100 of the Code of Civil Procedure, the lien that first comes into existence has priority over the lien that later comes into existence; and this priority is not affected by the recording or filing pursuant to Section 7171 or pursuant to Title 7 (commencing with Section 2100) of Part 4 of the Code of Civil Procedure, of a notice of either or both of the liens.

7171. (a) With respect to real property, at any time after creation of a state tax lien, the agency may record in the office of the county recorder of the county in which the real property is located a notice of state tax lien.

(b) With respect to personal property, at any time after creation of a state tax lien, the agency may file a notice of state tax lien with the Secretary of State pursuant to Chapter 14.5 (commencing with Section 7220).

(c) The notice of state tax lien recorded or filed pursuant to subdivision (a) or (b) shall include all of the following:

(1) The name and last known address of the taxpayer.

(2) The name of the agency giving notice of the lien.

(3) The amount of the unpaid tax.

(4) A statement that the amount of the unpaid tax is a lien on all real or personal property and rights to such property, including all after-acquired property and rights to property, belonging to the taxpayer.

(5) A statement that the agency has complied with all of the provisions of the applicable law for determining and assessing the tax.

7172. (a) A state tax lien continues in effect for 10 years from the date of its creation unless it is sooner released or otherwise discharged, and is extinguished 10 years from the date of its creation unless a notice of state tax lien is recorded or filed as provided in Section 7171.

(b) When a notice of a state tax lien is recorded or filed as provided in Section 7171 before the lien is extinguished pursuant to subdivision (a), the lien continues in effect for 10 years from the date of recording or filing the notice of state tax lien unless it is sooner released or otherwise discharged, and is extinguished 10 years from the date of recording or filing the notice of state tax lien unless it is extended as provided in subdivision (c).

(c) A state tax lien may, within 10 years of the date of the recording or filing of the notice of state tax lien or within 10 years of the date of the last extension of the lien, be extended by recording in the office of the county recorder of any county or filing with the Secretary of State a new notice of state tax lien as provided in Section 7171, and from the time of such recording or filing the lien is extended for 10 years unless sooner released or otherwise discharged.

7173. (a) Notwithstanding Sections 688 and 688.1 of the Code of Civil Procedure, if the taxpayer is a party to an action or special proceeding in which the taxpayer may become entitled to property or a money judgment, a state tax lien extends to the taxpayer's cause of action and any judgment in favor of the taxpayer subsequently procured in the action or proceeding. Notice of such a lien shall be given to all parties who, prior thereto, have made an appearance in the action or proceeding. The lien has priority from the time of filing of the notice in the action.

(b) No compromise, dismissal, settlement, or satisfaction shall be entered into by or on behalf of the taxpayer with any other party, lienor, or intervenor in the action or proceeding without the consent of the agency unless the lien is sooner released or otherwise discharged.

(c) The judge or clerk of the court shall endorse upon the judgment recovered in the action or proceeding a statement of the existence of the lien, the time of the filing of the notice in the action or proceeding, and the place where entered. Any abstract issued on the judgment shall contain, in addition to the matters set forth in Sections 674 and 688.1 of the Code of Civil Procedure, a statement of the lien in favor of the agency.

7174. (a) If the agency determines that the amount of tax, interest, and any penalty are sufficiently secured by a lien on other property or that the release or subordination of the state tax lien will not jeopardize the collection of the amount of the tax, including interest and penalty, the agency may at any time release all or any portion of the property subject to the state tax lien from the lien or may subordinate the state tax lien to other liens and encumbrances.

(b) If the agency finds that the liability represented by the state tax lien, including any interest accrued thereon, is legally unenforceable, the agency may release the lien.

(c) If the agency has recorded a notice of state tax lien as provided in Section 7171 and the liability represented by the lien, including any interest and penalty, has been satisfied in full:

(1) If the agency is other than the Controller or the State Board of Equalization, the agency shall, not later than 40 days after the liability is satisfied, record a certificate of release in the office of the county recorder where the notice of state tax lien is recorded.

(2) In the case of the Controller or the State Board of Equalization, the agency shall, not later than 40 days after the liability is satisfied, do one of the following:

(A) Record a certificate of release in the office of the county

recorder where the notice of state tax lien is recorded.

(B) Deposit in the mail or otherwise deliver to the taxpayer a certificate of release.

(d) If the agency records a certificate of release under subdivision (c) or files a certificate of release under subdivision (e), the cost of recording or filing is an obligation of the taxpayer and may be collected from the taxpayer in any manner provided by law for the collection of the tax.

(e) If the agency has filed a notice of state tax lien with the Secretary of State as provided in Section 7171 and the liability represented by the state tax lien, including any interest and penalty, has been satisfied in full, the agency shall, not later than 40 days after the liability is satisfied, do one of the following:

(1) File a certificate of release with the Secretary of State.

(2) Deposit in the mail or otherwise deliver a certificate of release to the taxpayer.

(f) For the purpose of subdivisions (c) and (e), if payment is made by check, the 40-day period does not commence to run until the check has been paid by the financial institution upon which it was drawn.

(g) A certificate by the agency to the effect that any property has been released from a state tax lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Article 3. Transitional Provisions

7190. (a) As used in this section, "preexisting state tax lien" means a lien:

(1) Created, recorded in any county, or filed with the Secretary of State, prior to July 1, 1978, pursuant to any of the following sections as those sections existed prior to July 1, 1978: Section 8048 of the Fish and Game Code, Section 3423 or 3772 of the Public Resources Code, Section 6757, 6757.5, 7871, 7872, 8991, 8996, 16062, 16063, 18881, 18882.5, 26161, 26161.5, 30322, or 32363 of the Revenue and Taxation Code, or Section 1703 or 1703.5 of the Unemployment Insurance Code.

(2) Created, recorded in any county, or filed with the Secretary of State, prior to January 1, 1980, pursuant to Section 3423 of the Public Resources Code as that section existed prior to January 1, 1980.

(b) Any preexisting state tax lien, and any rights or causes of action under such lien, shall continue in full force and effect for a period of 10 years from the date of creation, last recordation or filing, or extension thereof and may, within such period of 10 years, be further extended in the manner provided in Section 7172 and notice of the lien may be filed pursuant to Section 7173. Upon recordation or filing of an extension, the preexisting state tax lien shall have the same effect as state tax liens have under this chapter. Such extended

lien has the same priority it originally had under the law in effect at the time of its creation or initial recordation or filing.

7191. This chapter is a restatement and continuation of provisions formerly found in Sections 8048 and 8052 of the Fish and Game Code, Sections 3423, 3423.8, and 3772 of the Public Resources Code, Sections 6757, 6758, 6758.5, 6759, 7872, 7873, 7873.5, 8996, 8997, 8997.5, 16063, 16066, 16067, 18881, 18884, 18884.5, 18885, 26161, 26162, 26162.5, 30322, 30323, 30323.5, 30324, and 32363 of the Revenue and Taxation Code, and Sections 1703, 1704, 1704.5, and 1705 of the Unemployment Insurance Code, and with respect to such provisions is not a new enactment. All liens created pursuant to such provisions, or pursuant to Section 38532 or 38533 of the Revenue and Taxation Code, prior to January 1, 1981, and in effect on December 31, 1980, continue in force and effect and are governed by the provisions of this chapter on and after January 1, 1981.

SEC. 4.5. Section 7220 of the Government Code is amended to read:

7220. When authorized by Section 7171 or when specifically authorized by the provisions of particular tax laws, a notice of state tax lien may be filed in the office of the Secretary of State.

SEC. 5. Section 7221 of the Government Code is amended to read:

7221. The notice of state tax lien shall set forth the matters required by subdivision (c) of Section 7171.

SEC. 5.1. Section 7227 of the Government Code is amended to read:

7227. There is no fee for filing a notice of state tax lien, certificate of partial release, certificate of subordination or certificate of continuation. The fee for filing a certificate of release is two dollars ($2), but there is no fee for filing a certificate of release if the notice of the state tax lien was filed in error by the agency and a statement to that effect is noted on the face of the release.

SEC. 6. Section 27282 of the Government Code is amended to read:

27282. (a) The following documents may be recorded without acknowledgment, certificate of acknowledgment, or further proof:

(1) A judgment affecting the title to or possession of real property, authenticated by the certificate of the clerk of the court in which the judgment was rendered.

(2) A notice of location of mining claim.

(3) Certificates of amounts of taxes, interest and penalties due, notices of state tax liens and extensions thereof executed by the state, county, or city taxing agencies or officials pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, and Sections 2191.3, 2191.4, and 11495 of the Revenue and Taxation Code, and releases, partial releases, and subordinations executed pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, and Sections 2191.4, 11496, 14307, and 14308 of the Revenue and Taxation

Code.

(4) Notices of lien for postponed property taxes executed pursuant to Section 16182.

(5) A release, discharge, or subordination of a lien for postponed property taxes as authorized by Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2.

(b) Any document described in this section, from the time it is filed with the recorder for record, is constructive notice of the contents thereof to subsequent purchasers and mortgagees.

SEC. 7. Section 3356 of the Public Resources Code is amended to read:

3356. If a review is not taken within 10 days, or if taken, in case the decision of the director is affirmed, any charge, including penalty and interest thereon, imposed by the director shall constitute a lien which upon recordation or filing pursuant to Section 7171 of the Government Code, attaches to real or personal property. The lien upon the property shall be enforced in the same manner as are other liens on real property and personal property of the debtor. Upon the request of the supervisor, the State Controller shall bring an action for the enforcement of the lien in the manner provided in this chapter.

SEC. 8. Section 3423 of the Public Resources Code is amended to read:

3423. (a) If any person fails to pay any charge or penalty imposed under this chapter at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section only, "due and payable" means the date the charges required to be paid pursuant to Section 3420 are assessed under this chapter.

SEC. 9. Section 3423.6 of the Public Resources Code is amended to read:

3423.6. In the event that the lien of the charges, penalties or interest attaches to real property from which the oil or gas is extracted and more than one parcel of property is included within the lien, the Controller may release by certificate pursuant to Section 7174 of the Government Code from the lien of said charges, interest, penalties, and costs, upon payment by the owner of any parcel or parcels of property of his proportionate share of the assessment of the oil or gas extracted from all land included within said lien owned by him.

SEC. 10. Section 3423.8 of the Public Resources Code is repealed.

SEC. 11. Section 3768 of the Public Resources Code is amended to read:

3768. If a review is not taken within 10 days, or if taken, in case the decision of the board is affirmed, any charge, including penalty

and interest thereon, imposed by the board shall constitute a lien which, upon recordation or filing pursuant to Section 7171 of the Government Code, attaches to real or personal property. The lien upon the property shall be enforced in the same manner as are other liens on real property and personal property of the debtor. Upon the request of the supervisor, the State Controller shall bring an action for the enforcement of the lien in the manner provided in this chapter.

SEC. 12. Section 3772 of the Public Resources Code is amended to read:

3772. (a) If any person fails to pay any charge or penalty imposed under this chapter at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section only, "due and payable" means the date a return is required to be filed, without regard to any extension of time, without payment of the amount due or the date a determination or assessment made under this chapter becomes final, whichever is applicable.

SEC. 13. Section 3772.6 of the Public Resources Code is amended to read:

3772.6. In the event that the lien of the charges, penalties or interest attaches to real property from which geothermal energy is extracted and more than one parcel of property is included within the lien, the Controller may release by certificate pursuant to Section 7174 of the Government Code from the lien of such charges, interest, and penalties and costs, upon payment by the owner of any parcel or parcels of property of his proportionate share of the charges.

SEC. 14. Section 3772.8 of the Public Resources Code is repealed.

SEC. 14.3. Section 6702 of the Revenue and Taxation Code is amended to read:

6702. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim

of the delinquent taxpayer to the State Controller. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier. All persons so notified shall forthwith after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall state the amount, interest and penalty due from the person and shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of two times the amount, interest and penalty due from the person. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid he shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if solely by reason of such transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

SEC. 14.5. Section 6702 of the Revenue and Taxation Code is amended to read:

6702. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Controller. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in

their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier. All persons so notified shall forthwith after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or a state or federal savings and loan association or other credits or personal property in the possession or under the control of a bank or a state or federal savings and loan association, the notice to be effective shall state the amount, interest and penalty due from the person and shall be delivered or mailed to the branch or office of such bank or a state or federal savings and loan association at which such deposit is carried or at which such credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank or a state or federal savings and loan association, the aggregate amount of deposits, credits or personal property to be withheld shall be an amount equal to two times the amount of the tax, interest or penalty due from the person. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid he shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if solely by reason of such transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

SEC. 15. Section 6711 of the Revenue and Taxation Code is amended to read:

6711. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within the period during which a lien is in force as the result of the recording of an abstract under Section 6738 or the recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to collect the amount delinquent together with penalties and interest.

SEC. 15.5. Section 6740 is added to the Revenue and Taxation Code, to read:

6740. (a) If the board determines that the amount of tax, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the tax, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may

subordinate the lien to other liens and encumbrances.

(b) If the board finds that the liability represented by the lien imposed under this article, including any interest accrued thereon, is legally unenforceable, the board may release the lien.

(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that such property has been released or that the lien has been subordinated as provided in the certificate.

SEC. 16. Section 6756 of the Revenue and Taxation Code is amended to read:

6756. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 17. Section 6757 of the Revenue and Taxation Code is amended to read:

6757. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board;

(3) For amounts determined under Section 6536 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

SEC. 18. Section 6758 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 6758.5 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 6759 of the Revenue and Taxation Code is repealed.

SEC. 21. Section 6776 of the Revenue and Taxation Code is amended to read:

6776. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 22. Section 7851 of the Revenue and Taxation Code is amended to read:

7851. If any distributor is delinquent in the payment of his license tax, or in the event a determination has been made against him which remains unpaid, the Controller may, not later than 10 years after the payment became delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the distributor, or owing any debts to the distributor. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Controller.

SEC. 23. Section 7872 of the Revenue and Taxation Code is amended to read:

7872. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board;

(3) For amounts determined under Section 7698 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

SEC. 24. Section 7873 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 7873.5 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 7881 of the Revenue and Taxation Code is amended to read:

7881. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the Controller or his authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part.

SEC. 27. Section 8952 of the Revenue and Taxation Code is amended to read:

8952. If any user is delinquent in the payment of any obligation imposed under this part, or in the event a determination has been made against such a user which remains unpaid, the board may, not later than three years after the payment becomes delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof, personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the user, or owing any debts to the user. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Controller.

SEC. 28. Section 8996 of the Revenue and Taxation Code is amended to read:

8996. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the

return is delinquent, the date the return is received by the board;

(3) For amounts determined under Section 8826 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

SEC. 29. Section 8997 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 8997.5 of the Revenue and Taxation Code is repealed.

SEC. 31. Section 9001 of the Revenue and Taxation Code is amended to read:

9001. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 32. Section 16063 of the Revenue and Taxation Code is amended to read:

16063. (a) If any donor or donee fails to pay any tax, interest, or penalty imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Except as provided in subdivision (b), such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) Notwithstanding subdivision (a) of Section 7172 of the Government Code, a state tax lien created pursuant to subdivision (a) of this section:

(1) Continues in effect for 10 years from the time a deficiency determination is issued pursuant to this part unless the state tax lien is sooner released or otherwise discharged.

(2) Is extinguished 10 years from the time a deficiency determination is issued unless the state tax lien is recorded or filed as provided in Section 7171 of the Government Code.

(c) For the purpose of this section, "due and payable" means the time the gift is made.

SEC. 33. Section 16063.5 of the Revenue and Taxation Code is amended to read:

16063.5. Subject to the provisions of Section 7170 of the Government Code, if any personal property embraced in a gift is sold by the donee or his successor in interest to a bona fide purchaser for an adequate and full consideration in money or money's worth, the lien ceases as to that property and attaches to all other personal

property of the donee, including any after-acquired property, except such part of such other property as is also sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

SEC. 34. Section 16065 of the Revenue and Taxation Code is amended to read:

16065. In the case of any gift of an estate, income, or interest (a) for a term of years or for life, or (b) determinable upon any future or contingent event, or (c) constituting a remainder, reversion, or other expectancy, the tax imposed on the gift constitutes a lien which, upon recording or filing pursuant to Section 7171 of the Government Code, attaches to the entire property by which the estate, income, or interest is supported.

SEC. 35. Section 16066 of the Revenue and Taxation Code is repealed.

SEC. 36. Section 16067 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 16071 of the Revenue and Taxation Code is amended to read:

16071. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the Controller or his authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 38. Section 18831 of the Revenue and Taxation Code is amended to read:

18831. At any time within six years after the determination of liability for any tax, penalties, and interest, or within the period during which a lien is in force as the result of the recording of an abstract under Section 18863 or of the recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the Franchise Tax Board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to recover the amount of any taxes, penalties, and interest due and unpaid under this part.

SEC. 38.3. Section 18866 is added to the Revenue and Taxation Code, to read:

18866. The Franchise Tax Board may, at any time, release all or any portion of the property subject to any lien provided for in this article from the lien or subordinate the lien to other liens if it determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of the taxes.

SEC. 38.4. Section 18867 is added to the Revenue and Taxation Code, to read:

18867. The Franchise Tax Board may release any lien imposed under Section 18863 or 18864 if it finds that the liability represented by the lien, including any interest accrued thereon, is legally unenforceable.

SEC. 38.5. Section 18868 is added to the Revenue and Taxation Code, to read:

18868. A certificate by the Franchise Tax Board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens is conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

SEC. 38.6. Section 18869 is added to the Revenue and Taxation Code, to read:

18869. If the Franchise Tax Board records a certificate of release pursuant to Section 18866 or 18867, the cost of recording is an obligation of the taxpayer and may be collected from the taxpayer in any manner provided in this part for the collection of the tax.

SEC. 39. Section 18881 of the Revenue and Taxation Code is amended to read:

18881. (a) If any taxpayer fails to pay any liability imposed under this part at the time that it becomes due and payable, the amount thereof, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return filed on or before the date payment is due (with regard to any extension of time to pay), the day after such payment due date;

(2) For amounts disclosed on a return filed after the date payment is due (with regard to any extension of time to pay), the date the return is received by the Franchise Tax Board;

(3) For amounts determined under Section 18641 or 18642 (pertaining to jeopardy assessments), the date the notice of the Franchise Tax Board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

SEC. 40. Section 18884 of the Revenue and Taxation Code is repealed.

SEC. 41. Section 18884.5 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 18885 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 18886 of the Revenue and Taxation Code is amended to read:

18886. Upon recordation or filing of a notice of state tax lien pursuant to Section 7171 of the Government Code by the Franchise

Tax Board for any taxes due from the grantor of a trust on income of the trust which is taxable to the grantor under this part, and upon its giving notice of the recording or filing pursuant to Section 7171 of the Government Code to the fiduciary of the trust, or in case there is more than one fiduciary to any one of the fiduciaries, the amount of the taxes constitutes a lien upon all the real or personal property of the trust in the county owned by the trust or afterwards and before the lien expires acquired by the trust. The lien has the force, effect, and priority of a lien created pursuant to Section 18881.

SEC. 44. Section 18888 of the Revenue and Taxation Code is repealed.

SEC. 45. Section 18933 of the Revenue and Taxation Code is amended to read:

18933. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 46. Section 26161 of the Revenue and Taxation Code is amended to read:

26161. (a) If any person fails to pay any liability imposed under this part at the time that it becomes due and payable, the amount thereof, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return filed on or before the date payment is due, the day after such payment due date;

(2) For amounts disclosed on a return filed after the date payment is due, the date the return is received by the Franchise Tax Board;

(3) For amounts determined under Section 25761 (pertaining to jeopardy assessments), the date the notice of the Franchise Tax Board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

(c) For purposes of this section, "person" includes a corporation, a bank or an organization exempt from taxation under Section 23701.

SEC. 47. Section 26162 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 26162.5 of the Revenue and Taxation Code is repealed.

SEC. 49. Section 26251 of the Revenue and Taxation Code is amended to read:

26251. At any time within six years after the determination of liability for any tax, penalties, and interest or within the period during which a lien is in force as the result of the recording or filing of a notice of state tax lien under Section 7171 of the Government Code, Franchise Tax Board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to collect the amount due, together with penalties, and interest. The Attorney General or counsel for the Franchise Tax Board shall prosecute the action. In such action a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure without the showing required by Section 485.010 of the Code of Civil Procedure.

SEC. 50. Section 26312 of the Revenue and Taxation Code is amended to read:

26312. The amount required to be paid by any taxpayer under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the taxpayer is insolvent.

(b) Whenever the taxpayer makes a voluntary assignment of his assets.

(c) Whenever the estate of the taxpayer in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent taxpayer required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 51. Section 30301 of the Revenue and Taxation Code is amended to read:

30301. At any time within three years after any amount of tax becomes due and payable, and at any time within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board may transmit notice of the

delinquency to the Attorney General, who shall at once proceed by appropriate legal action to collect all sums due the state.

SEC. 52. Section 30311 of the Revenue and Taxation Code is amended to read:

30311. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Controller.

SEC. 53. Section 30321 of the Revenue and Taxation Code is amended to read:

30321. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 54. Section 30322 of the Revenue and Taxation Code is amended to read:

30322. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and

payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board;

(3) For amounts determined under Section 30241 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

SEC. 55. Section 30323 of the Revenue and Taxation Code is repealed.

SEC. 56. Section 30323.5 of the Revenue and Taxation Code is repealed.

SEC. 57. Section 30324 of the Revenue and Taxation Code is repealed.

SEC. 58. Section 30341 of the Revenue and Taxation Code is amended to read:

30341. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy and a sale pursuant to a writ of execution.

SEC. 59. Section 32363 of the Revenue and Taxation Code is amended to read:

32363. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board;

(3) For amounts determined under Section 32311 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

SEC. 59.5. Section 32364 is added to the Revenue and Taxation

Code, to read:

32364. (a) If the board determines that the amount of tax, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the tax, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.

(b) If the board finds that the liability represented by the lien imposed under this article, including any interest acccrued thereon, is legally unenforceable, the board may release the lien.

(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that such property has been released or that the lien has been subordinated as provided in the certificate.

SEC. 60. Section 32365 of the Revenue and Taxation Code is amended to read:

32365. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording of an abstract under Section 32362 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 61. Section 32381 of the Revenue and Taxation Code is amended to read:

32381. If any taxpayer is delinquent in the payment of any obligations imposed by this part, or in the event a determination has been made against such a taxpayer which remains unpaid, the board may, not later than three years after the payment becomes delinquent, or within 10 years after the last recording of an abstract or copy of judgment under Section 32362 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof, personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the taxpayer, or owing any debts to the taxpayer. In the case of any state officer, department, or agency, the notice shall be given to such officer, department, or agency prior to the time it presents the claim of the delinquent taxpayer to the State Controller.

SEC. 62. Section 32386 of the Revenue and Taxation Code is

amended to read:

32386. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over a lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section is subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 62.1. Section 38502 of the Revenue and Taxation Code is amended to read:

38502. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract under Section 38523 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Controller. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier. All persons so notified shall forthwith after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective

shall state the amount, interest and penalty due from the person and shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of two times the amount, interest and penalty due from the person. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid he shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if solely by reason of such transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

SEC. 62.2. Section 38511 of the Revenue and Taxation Code is amended to read:

38511. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within the period during which a lien is in force as the result of the recording of an abstract under Section 38523 or the recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to collect the amount delinquent together with penalties and interest.

SEC. 62.3. Section 38531 of the Revenue and Taxation Code is amended to read:

38531. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services

by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 62.4. Section 38532 of the Revenue and Taxation Code is amended to read:

38532. (a) If any amount required to be paid to the state under this part is not paid at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent.

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board.

(3) For amounts received under Section 38431 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued.

(4) For all other amounts, the date the assessment is final.

SEC. 62.5. Section 38533 of the Revenue and Taxation Code is repealed.

SEC. 62.6. Section 38534 of the Revenue and Taxation Code is repealed.

SEC. 62.7. Section 38535 of the Revenue and Taxation Code is repealed.

SEC. 62.8. Section 38536 of the Revenue and Taxation Code is repealed.

SEC. 62.9. Section 38541 of the Revenue and Taxation Code is amended to read:

38541. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording of an abstract under Section 38523 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 63. Section 1702 of the Unemployment Insurance Code is amended to read:

1702. Section 1701 does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code. The preference given to the state by

Section 1701 is subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 64. Section 1703 of the Unemployment Insurance Code is amended to read:

1703. (a) If any employing unit or other person fails to pay any amount imposed under this division at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the director before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the director;

(3) For all other amounts, the date the assessment is final.

SEC. 65. Section 1704 of the Unemployment Insurance Code is repealed.

SEC. 66. Section 1704.5 of the Unemployment Insurance Code is repealed.

SEC. 67. Section 1705 of the Unemployment Insurance Code is repealed.

SEC. 68. Section 1755 of the Unemployment Insurance Code is amended to read:

1755. If any person or employing unit is delinquent in the payment of any contributions, penalties or interest provided for in this division, the director may, not later than three years after the payment became delinquent or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) of this chapter or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, collect the delinquency or enforce any liens by levy served either personally or by certified mail, to all persons having in their possession or under their control any credits or, with respect to a bank or savings and loan association, other personal property belonging to the delinquent person or employing unit, or owing any debts to such person or employing unit at the time of the receipt of the notice of levy. Any person upon whom a levy has been served having in his possession or under his control any credits, or with respect to a bank or savings and loan association other personal property, belonging to the delinquent person or employing unit or owing any debts to such person or employing unit at the time of the receipt of the levy, shall surrender such credits or other personal property to the director or pay to the director the amount of any debt owing the delinquent employer within five days of service of the

levy. Any such person in possession of any credits or other personal property or owing any debts to the delinquent person or employing unit who surrenders such credits or other personal property or pays such debts owing the delinquent person or employing unit shall be discharged from any obligation or liability to the delinquent person or employing unit with respect to the credits or personal property surrendered or debts paid to the director. If the levy is made on a deposit or credits or other personal property in the possession or under the control of a bank or savings and loan association, the notice of levy shall be delivered or mailed to the branch or office of such bank or savings and loan association at which such deposit is carried or at which such credits or personal property is held.

SEC. 69. Section 1785 of the Unemployment Insurance Code is amended to read:

1785. If any amount required to be paid under this division is not paid when due, the director or his authorized representative may, not later than three years after the payment became delinquent, or within 10 years after the last entry of a judgment under Article 5 of this chapter or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this division. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 70. Section 1815 of the Unemployment Insurance Code is amended to read:

1815. If any employing unit is delinquent in the payment of any contributions, penalties or interest provided for in this division, the director may, not later than 10 years after the payment became delinquent or within 10 years after the last entry of a judgment under this article or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, file in the Office of the County Clerk of Sacramento County, or with the county clerk of the county in which the employer has his principal place of business, a certificate specifying the amount of the contributions, interest and penalty due and the name and last known address of the employer liable therefor. The certificate shall also contain a statement that the director has complied with all the provisions of this division in relation to the computation and levy of the contributions, interest and penalty, and a request that judgment be entered against the employer in the amount set forth in the certificate. The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the employer in the amount set forth in the certificate. Such judgment may be filed by the county clerk in a looseleaf book entitled "Unemployment Contributions Judgments."

SEC. 70.5. Section 1817 is added to the Unemployment Insurance

Code, to read:

1817. (a) If the director determines that the amount of any contributions, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under Section 1816 will not jeopardize the collection of the amount of the contributions, interest, and penalties, the director may at any time release all or any portion of the property subject to the lien imposed by Section 1816 from the lien or may subordinate the lien imposed by Section 1816 to other liens and encumbrances.

(b) If the director finds that the liability represented by the lien imposed under Section 1816, including any interest accrued thereon, is legally unenforceable, the director may release the lien.

(c) A certificate by the director to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that such property has been released or that the lien has been subordinated as provided in the certificate.

SEC. 71. Section 1852 of the Unemployment Insurance Code is amended to read:

1852. In addition to any other collection procedures authorized in this division, the director may bring an action in the courts of this or any other state or of the United States, in the name of the State of California, to collect the amount of any delinquent employer or worker contributions together with penalties and interest. No such action shall be commenced later than:

(a) Three years after the date on which any amount due on a return filed by an employing unit or on an assessment made by the director becomes delinquent.

(b) Ten years after:

(1) The date on which a judgment is last entered under Article 5 of this chapter.

(2) The date on which a notice of state tax lien is last recorded or filed under Section 7171 of the Government Code.

SEC. 72. It is the intent of the Legislature, if this bill and Assembly Bill No. 2450 are both chaptered and become effective January 1, 1981, both bills amend Section 6702 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2450, that the amendments to Section 6702 proposed by both bills be given effect and incorporated in Section 6702 in the form set forth in Section 14.5 of this act.

Therefore, Section 14.5 of this act shall become operative only if this bill and Assembly Bill No. 2450 are both chaptered and become effective January 1, 1981, both amend Section 6702, and this bill is chaptered after Assembly Bill No. 2450, in which case Section 14.3 of this act shall not become operative.

CHAPTER 601

An act to amend Sections 10249.3, 11000, 11000.1, 11004.5 and 11011.1 of, and to add Sections 10249.11, and 11003.5 to the Business and Professions Code, relating to subdivisions.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 10249.3 of the Business and Professions Code is amended to read:

10249.3. The fee for filing an application for a permit required by this article shall not exceed five hundred dollars ($500) per subdivision, plus three dollars ($3) for each lot, unit, apartment, undivided interest, time-share estate, or time-share use offered for sale or lease.

SEC. 2. Section 10249.11 is added to the Business and Professions Code, to read:

10249.11. "Subdivision," as used in Section 10249, also includes a time-share project, as defined in Section 11003.5, consisting of 12 or more time-share estates or time-share uses having terms of five years or more, or having terms of less than five years which also include options to renew, except that time-share uses, whether or not assignable or irrevocable, in real property other than structural dwelling places shall not constitute a subdivision.

SEC. 3. Section 11000 of the Business and Professions Code is amended to read:

11000. "Subdivided lands" and "subdivision" refer to improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease or financing, whether immediate or future, into five or more lots or parcels. However, land or lands sold by lots or parcels of not less than 160 acres which are designated by such lot or parcel description by government surveys and appear as such on the current assessment roll of the county in which such land or lands are situated shall not be deemed to be "subdivided lands" or "a subdivision" within the meaning of this section, unless such land or lands are divided or proposed to be divided for the purpose of sale for oil and gas purposes, in which case such land or lands shall be deemed to be "subdivided lands" or "a subdivision" within the meaning of this section. This chapter also does not apply to the leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, or commercial building, except that the leasing of apartments in a community apartment project, as defined in Section 11004, and the creation of a time-share project, as specified in Section 11004.5, in an apartment or similar space within a commercial building or complex, shall be subject to the provisions of this chapter.

Nothing in this section shall in any way modify or affect any of the provisions of Section 66424 of the Government Code.

SEC. 4. Section 11000 of the Business and Professions Code is amended to read:

11000. "Subdivided lands" and "subdivision" refer to improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease or financing, whether immediate or future, into five or more lots or parcels. However, land or lands sold by lots or parcels of not less than 160 acres which are designated by such lot or parcel description by government surveys and appear as such on the current assessment roll of the county in which such land or lands are situated shall not be deemed to be "subdivided lands" or "a subdivision" within the meaning of this section, unless such land or lands are divided or proposed to be divided for the purpose of sale for oil and gas purposes, in which case such land or lands shall be deemed to be "subdivided lands" or "a subdivision" within the meaning of this section. This chapter also does not apply to the leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, commercial building, or mobilehome park as defined under Section 18214 of the Health and Safety Code, except that the offering of leases for a term in excess of five years to tenants within a mobilehome park as a mandatory requirement and prerequisite to tenancy within the mobilehome park shall be subject to the provisions of this chapter. The leasing of apartments in a community apartment project, as defined in Section 11004, and the creation of a time-share project as specified in Section 11004.5, in an apartment or similar space within a commercial, building or complex, shall be subject to the provisions of this chapter.

Nothing in this section shall in any way modify or affect any of the provisions of Section 66424 of the Government Code.

SEC. 5. Section 11000.1 of the Business and Professions Code is amended to read:

11000.1. (a) "Subdivided lands" and "subdivision," as defined by Sections 11000, 11000.5, and 11004.5, also includes improved or unimproved land or lands, lot or lots, or parcel or parcels, of any size, in which, for the purpose of sale or lease or financing, whether immediate or future, five or more undivided interests are created or are proposed to be created.

(b) This section shall not apply to the creation or proposed creation of undivided interests in land if any one of the following conditions exist:

(1) The undivided interests are held or to be held by persons related one to the other by blood or marriage.

(2) The undivided interests are to be purchased and owned solely by persons who present evidence satisfactory to the Real Estate Commissioner that they are knowledgeable and experienced investors who comprehend the nature and extent of the risks involved in the ownership of these interests. The Real Estate Commissioner shall grant an exemption from the provisions of this

part if the undivided interests are to be purchased by no more than 10 persons, each of whom furnishes a signed statement to the commissioner that he (1) is fully informed concerning the real property to be acquired and his interest therein including the risks involved in ownership of undivided interests, and (2) is purchasing the interest or interests for his own account and with no present intention to resell or otherwise dispose of the interest for value, and (3) expressly waives protections afforded to a purchaser by the provisions of this part.

(3) The undivided interests are created as the result of a foreclosure sale.

(4) The undivided interests are created by a valid order or decree of a court.

(5) The offering and sale of the undivided interests have been expressly qualified by the issuance of a permit from the California Commissioner of Corporations pursuant to the Corporate Securities Act or from the California Real Estate Commissioner under the Real Estate Syndicate Act.

(6) The undivided interests to be sold or leased are in real property improved with a residential, commercial or industrial structure or structures, and the current assessed value of the land does not exceed the current assessed value of the structures thereon.

(7) The real property is offered for sale as a time-share project as defined in Section 11003.5.

SEC. 6. Section 11003.5 is added to the Business and Professions Code, to read:

11003.5. (a) A "time-share project" is one in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

(b) A "time-share estate" is a right of occupancy in a time-share project which is coupled with an estate in the real property.

(c) A "time-share use" is a license or contractual or membership right of occupancy in a time-share project which is not coupled with an estate in the real property.

SEC. 7. Section 11004.5 of the Business and Professions Code is amended to read:

11004.5. In addition to any provisions of Section 11000 of this code the reference therein to "subdivided lands" and "subdivision" shall include all of the following:

(a) Any planned development, as defined in Section 11003, containing five or more lots.

(b) Any community apartment project, as defined by Section 11004, containing two or more apartments.

(c) Any condominium project containing two or more condominiums as defined in Section 783 of the Civil Code.

(d) Any stock cooperative as defined in Section 11003.2, including

any legal or beneficial interests therein, having or intended to have two or more shareholders.

(e) A time-share project, as defined in Section 11003.5, consisting of 12 or more time-share estates or time-share uses having terms of five years or more, or having terms of less than five years which also include options to renew, except that time-share uses, whether or not assignable or irrevocable, in real property other than structural dwelling places shall not constitute a subdivision.

(f) Any limited-equity housing cooperative as defined in Section 11003.4.

(g) In addition, the following interests shall be subject to the provisions of this chapter and the regulations of the commissioner adopted pursuant thereto:

(1) Any accompanying memberships or other rights or privileges created in, or in connection with, any of the forms of development referred to in subdivision (a), (b), (c), (d), (e), or (f) by any deeds, conveyances, leases, subleases, assignments, declarations of restrictions, articles of incorporation, bylaws or contracts applicable thereto.

(2) Any interests or memberships in any owners association as described in Section 11003.1 created in connection with any of the forms of the development referred to in subdivision (a), (b), (c), (d), (e), or (f).

SEC. 8. Section 11011.1 of the Business and Professions Code is amended to read:

11011.1. With respect to an answered questionnaire in connection with any subdivision described in Section 11004.5, or any interest therein, a filing fee not to exceed five hundred dollars ($500) per subdivision, plus three dollars ($3) for each lot, parcel, apartment, unit, undivided interest, time-share estate, or time-share use in the subdivision, shall accompany the answered questionnaire. The filing fee provided for in this section shall be in lieu of the filing fee otherwise provided for in Section 11011.

SEC. 9. The owner and the agents of the owner of a time-share project subject to this act in which sales of time-share estates or uses in an apartment, or in similar space within a commercial building or complex, were made on or before October 1, 1980, without benefit of a subdivision public report or permit issued by the Department of Real Estate or a securities permit issued by the Department of Corporations may continue to make sales of the time-share interests in the project on or after January 1, 1981, subject to the following conditions:

(1) The owner has submitted on or before November 28, 1980, on a form and in the manner prescribed by the Department of Real Estate, a notice of intention to continue to sell and an application and fee for a subdivision public report or permit for the project.

(2) The right of the owner and his or her agents to offer for sale and to sell time-share interests without benefit of a subdivision public report or permit shall exist unless and until the Department of Real

Estate issues an order denying the application for public report or permit. If an order of denial of the application is issued by the department, the owner shall have the rights provided in Section 11018.3 of the Business and Professions Code to a hearing to contest the order of denial.

SEC. 10. The Legislature finds and declares that it is in the public interest that all projects involving the offering of 12 or more time-share interests be made subject to pre-public-offering scrutiny by the Department of Real Estate. The Legislature recognizes however that there are some time-share projects currently being marketed, or in final premarketing stages, which are not subject to the jurisdiction of the Department of Real Estate under current law, but which will become subject to the provisions of this act before the marketing can be completed. Suspension of sales and related operations until receipt of a public report or permit authorizing the sale of time-share interests is likely to have a substantial adverse impact upon persons dependent for their livelihood upon organizing and marketing the time-share projects and possibly upon persons who have previously purchased interests in the projects.

To minimize the severity of any adverse impact of this act upon such projects, a compliance-grace period is established under Section 9 of this act for those offerings for which a subdivison public report or permit is not presently required under law. The Department of Real Estate shall have a period of approximately one month before the effective date of this act in which to take positive action to deny issuance of a public report or permit if it finds that the proposed offering is such that the public interest demands that there be significant changes in the project. Otherwise the interests may continue to be sold until the public report or permit is issued.

To prevent misuse or abuse, the compliance-grace period shall be applicable only to those projects in which sales were consummated on or before October 1, 1980, a date when the contents of this act will be generally known to persons contemplating time-share projects. The Legislature finds that the likelihood of oppressive consequences to time-share projects in which sales of interests were commenced after October 1, 1980, is outweighed by the potential for abuse of the compliance-grace period by persons making offerings that are ill-conceived and likely to deceive purchasers.

SEC. 11. It is the intent of the Legislature, if this bill and Senate Bill 1665 are both chaptered and become effective January 1, 1981, both bills amend Section 11000 of the Business and Professions Code, and this bill is chaptered after Senate Bill 1665, that the amendments to Section 11000 proposed by both bills be given effect and incorporated in Section 11000 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill 1665 are both chaptered and become effective January 1, 1981, both amend Section 11000, and this bill is chaptered after Senate Bill 1665, in which case Section 3 of this act shall not become operative.

SEC. 12. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 602

An act to add Chapter 7 (commencing with Section 69001) to Division 22 of the Food and Agricultural Code, relating to the marketing of agricultural products, and making an appropriation therefor.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Chapter 7 (commencing with Section 69001) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 7. CALIFORNIA PISTACHIO COMMISSION

Article 1. Declaration and General Provisions

69001. The pistachio industry in this state is expanding and has the potential to constitute one of California's principal nut crops. The industry can provide an important source of employment for many people in the state, a high proportion of whom are from underprivileged and historically deprived segments of the population.

69002. As an exotic nut crop developed in the Mideast, the pistachio is not heavily consumed in this country or abroad. Opportunity exists for continued growth and expansion of the industry, by creating new markets in such areas. The success of such an expansion program is uniquely dependent upon effective advertising and promotion both domestically and in foreign countries, since the creation of new markets is essentially a matter of educating people to the use of a previously unknown or unrecognized food.

69003. The establishment of a California Pistachio Commission is necessary for the efficient development and management of a national and international advertising and promotion program, and essential to ensure that the California pistachio industry can compete successfully in the world marketplace and reduce the spread between consumer cost and the amount received by the producer.

69004. The production and marketing of pistachios produced in this state is hereby declared to be affected with a public interest. The provisions of this chapter are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

69005. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, and production research.

69006. No action taken by the commission, nor by any individual in accordance with this chapter or with rules and regulations adopted under the chapter, shall be deemed a violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, Section 1673 of the Civil Code, or any rule of statutory or common law against monopolies or combinations in restraint of trade.

Article 2. Definitions

69011. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

69012. "Pistachio" means any variety of pistachio produced in the state, including any pistachios delivered to a processor for processing into any pistachio product.

69013. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to the provisions of this chapter.

69014. "Commission" means the California Pistachio Commission.

69015. "Commissioner" means any member of the commission.

69016. "Distribute" means to engage in the business of a distributor.

69017. "Distributor" means any person who engages in the operation of selling, marketing, or distributing pistachios which he has produced or purchased or acquired from a producer, or which he is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. It does not, however, include a retailer, except a retailer who purchases or acquires from, or handles on behalf of, any producer pistachios which were not previously subject to regulation by the commission.

69018. "Director" means the Director of Food and Agriculture.

69019. "Districts" shall consist of the following:

(a) District 1 consists of Tulare, Kern, San Bernardino, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial Counties.

(b) District 2 consists of Kings, Fresno, Madera, and Merced Counties.

(c) District 3 consists of all counties where pistachios are produced and which are not included in Districts 1 and 2.

The boundaries of any district may be changed by a two-thirds vote

of the commission, which is concurred in by the director, to insure proper representation by producers. Such boundaries need not coincide with county lines.

69020. "Ex officio member" shall be a nonvoting member of the commission.

69022. "Processor" means any person engaged, within this state, as a distributor in the business of distributing pistachios, and employees thereof so engaged.

69023. "Marketing research" means any research relating to the sale of pistachios.

69024. "Marketing season" or "fiscal year" means the period beginning September 1 of any year and extending through the last day of August of the following year.

69025. "Process" means to engage in the business of a processor.

69027. "Producer" or "grower" means any person who is engaged within this state in the business of producing, or causing to be produced for market, pistachios, and who, upon request, provides proof of commodity sale during the preceding crop year as provided in Section 69081.

69028. "Production research" means any research relating to the production of pistachios.

69029. When the director is required to concur in a decision of the commission, he shall indicate his response to the commission within 15 working days from notification of such decision. Such response may be a request that additional information be provided.

Article 3. The California Pistachio Commission

69031. There is in the state government the California Pistachio Commission. The commission shall be composed of eight pistachio producers and one public member. Producers within the respective districts shall elect four producers from District 1, three producers from District 2, and one producer from District 3.

The public member shall be appointed to the commission by the director from the nominees recommended by the commission.

The director and other appropriate individuals as determined by the commission shall be nonvoting ex officio members of the commission.

69032. The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

If the commission refuses or fails to cease such activities or functions or to make such corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until such time as the cessation or correction of activities or functions as required by the director has been accomplished by the commission.

Actions of the commission in violation of such written notice shall

be without legal force or effect. The director, to the extent feasible, shall issue such written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of such written notice.

Upon service of the written notice, the director shall notify the commission in writing of the specific acts which he determines are not in the public interest or are in violation of this chapter, his reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and he may make recommendations that will make such activities or functions acceptable.

69033. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with such written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

69033.5. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his duties and responsibilities under this chapter, provided, however, that the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to such action.

69034. Each member of the commission, except the ex officio members, shall have an alternate member to be elected in the same manner as the member. An alternate member shall, in the absence of the member for whom he is alternate, serve in place of the member on the commission, and shall have and be able to exercise all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or the disqualification of a member, the alternate shall act as a member on the commission until a successor is elected and has qualified.

69035. Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate member to continue in his position due to a change in status making him ineligible to serve, or due to death, removal, or resignation, shall be filled, for the unexpired portion of the term, by a majority vote of the commission; provided, however, that such person shall fulfill all the qualifications set forth in this article as required for the member whose office he is to fill. Qualifications of any person to fill a vacancy on the commission shall be certified in writing to the director. The director shall notify the commission if he determines that any such person is not qualified.

69036. A producer member or his alternate on the commission shall be an individual, partner, or employee of a producer who has a financial interest in producing, or causing to be produced, pistachios for market. Not more than two such members shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization and not more than one such member in any one district

shall be so employed or connected. Qualification as a producer member must continue during the entire term of office.

69037. The public member or his alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the pistachio industry.

69038. The term of office of all commissioners, except any ex officio member, shall be two years from the date of their election and until their successors are qualified; provided, however, that of the first members of the commission, one-half of the producers shall serve for one year, and one-half of the producers shall serve for two years, with the determination of term of each such member to be made by lot at the time of election. Terms of office of each commissioner shall be limited to four consecutive terms.

69039. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

69040. A quorum of the commission shall be any five voting commissioners. Except as provided in Sections 69019 and 69102, the vote of a majority of members present at a meeting at which there is quorum shall constitute the act of the commission.

69041. The director or his representatives shall be notified and may attend each meeting of the commission, and any committee meeting of the commission.

69042. No commissioner or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each commissioner, except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission may receive a sum of not to exceed one hundred dollars ($100) per day, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

69043. All moneys received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission, shall be deposited in such banks as the commission may designate and shall be disbursed by order of the commission through such agent or agents as it may designate for that purpose. Any such agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the commission, in the amount of not less than twenty-five thousand dollars ($25,000).

69044. The state shall not be liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission. No member of the commission or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the commission nor shall a commissioner, alternate member, or employee of such commission be responsible individually in any way to any producer, processor, handler or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his own individual acts of dishonesty or crime. No commissioner or alternate member shall be held responsible individually for any act or omission of any member of such commission. The liability of the commissioners shall be several and not joint, and no commissioner shall be liable for the default of any other commissioner.

Article 4. Powers and Duties of the Commission

69051. The powers and duties of the commission, subject to Sections 69032 and 69033, shall include, but are not limited to, all of the following powers and duties:

(a) To adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including rules for appeals from any bylaw, rule, regulation, or order of the commission.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

(d) To employ a manager to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, that is necessary to carry out the provisions of this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the manager engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission, such as a processor advisory committee, to advise the commission in carrying out the provisions of this chapter.

(g) To establish offices and incur expenses, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(h) To keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers of pistachios, copies of which shall also be submitted to the Legislature and the Department of Food and Agriculture. In addition, the director may, as he determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission. The Department of Finance may audit books, records, and accounts of the commission at any time.

(i) To promote the sale of pistachios by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expending present markets and creating new and larger intrastate, interstate, and foreign markets for pistachios, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of pistachios.

(j) To educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling pistachios; to make market surveys and analyses; to present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the marketing of pistachios.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the commission may deem necessary for the promotion of the sale of pistachios.

(*l*) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from such research or elsewhere, respecting cultural and production practices, and marketing and distribution of pistachios. In connection with such research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for such purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting such research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the pistachio industry, to producers and processors.

(n) To establish an assessment rate to defray operating costs of the commission.

(o) To establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e) of Section 69051.

(p) To submit to the director for his concurrence, an annual statement of contemplated activities authorized under this chapter, including advertising, promotion, marketing research, and production research.

Article 5. Implementation and Voting Procedures

69061. Within 90 days after January 1, 1981, the director shall establish a list of producers eligible to vote on implementation of this chapter. In establishing such list, the director shall require that processors, county agricultural commissioners, and pistachio producers submit the names, mailing addresses, and district numbers of all pistachio producers who produce merchantable pistachios. The request for such information shall be in writing. Such list shall be filed within 30 days following receipt of the written notice.

Any producer of pistachios, whose name does not appear upon the director's list of producers affected, may have his name established on such list by filing with the director a signed statement, identifying himself as a producer. Failure to be on such list does not exempt the producer from paying assessments under this chapter.

69062. The provisions of this chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds in a referendum conducted by the director that at least 40 percent of the total number of producers from the list established by the director pursuant to Section 69061, participate, and that:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed a majority of the total quantity of pistachios in the preceding season by all of the producers who voted in the referendum; or

(b) A majority of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed 65 percent or more of the total quantity of pistachios in the preceding season by all of the producers who voted in the referendum.

69063. The director shall establish a period in which to conduct such referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional procedures as may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend such period. However, the total referendum period may not exceed 60 days.

69064. Nonreceipt of a ballot shall not invalidate a referendum.

69065. If the director finds that a favorable vote has been given as provided in Section 69062, he shall certify and give notice of such favorable vote to all producers whose names and addresses may be on file with the director.

69066. If the director finds that a favorable vote has not been given as provided in Section 69062, he shall so certify and declare all provisions of this chapter inoperative.

69067. Upon certification of the commission, the director shall call meetings of producers in each district for the purpose of nominating and electing persons for appointment to the commission by the director. All producers on the director's list shall be given written notice of the election meetings at least 15 days prior to the meeting date.

69068. To be eligible for election to the commission, producer nominees must present to the director a nomination petition with the signatures of at least six eligible producers from the district from which the nominee is seeking election.

69069. Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to such nomination and election procedures as shall be established by the commission with the concurrence of the director.

69070. Prior to the referendum vote conducted by the director pursuant to Section 69062, the proponents of the commission shall deposit with the director such amount as the director may deem necessary to defray the expenses of preparing the necessary lists and information and conducting such vote.

Any funds not used in carrying out the provisions of Section 69062 shall be returned to the proponents of the commission who deposited the funds with the director.

Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out the provisions of Section 69062, and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

69081. The commission shall, not later than September 1 of each year, establish the assessment for the following 12 months which shall not exceed 1.5% of the gross dollar value, less processing and hulling costs, of the year's sale of pistachios by all producers to processors.

69082. The provisions of this chapter do not apply to pistachios produced only for the producer's home use or where the pistachios are used only for ornamental purposes; provided, however, that such producer shall file an affidavit with the commission establishing that his pistachios are not produced for commercial purposes. In any event, no production of pistachios in excess of 1,000 dried pounds per year is exempt from the assessment under this article.

69083. Every processor shall keep a complete and accurate record of all pistachios processed by him with the name of the producer whose pistachios were processed. Such records shall be in simple form and contain such information as the commission shall prescribe. Such records shall be preserved by the processor for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

69084. All proprietary information obtained by the commission or the director from producers or processors shall be confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other such information which the processors request from the commission to receive in total, excluding individual processor information, may be disclosed by the commission.

69085. Assessments shall be upon the producer. The first processor of pistachios being assessed who establishes the commodity's merchantability, shall deduct such assessment from amounts paid by him to the producer, and shall be a trustee of such funds until they are paid to the commission at the time and in the manner prescribed by the commission.

69086. Every processor shall be personally liable for the payment of the collected assessments, and failure of the processor to collect the assessment from any producer shall not exempt any processor from such liability.

69087. Any assessment which is levied as provided for in this chapter, is a personal debt of every producer so assessed. Failure of a processor to make payment of the collected assessment to the commission shall not relieve the producer of this obligation.

69088. Any producer or processor who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of such assessment determined to be due and, in addition, 1½ percent interest per month on the unpaid balance.

Article 7. Actions and Penalties

69091. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment, for any person to do any of the following:

(a) Willfully to render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the shipping of pistachios or in the wholesale or retail trade of pistachios, to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from

whom he has received pistachios and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

69092. The commission shall establish procedures for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for such purpose. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court.

69093. The commission shall be empowered to commence civil actions and to utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting the provisions of this chapter and the rules and regulations adopted under this chapter. Notwithstanding Section 69033.5, upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for such actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

Article 8. Continuation or Suspension and Termination

69101. Between September 1, 1985, and August 31, 1986, the commission shall cause a referendum to be conducted among producers in the manner prescribed in Section 69062 to determine whether the operations of provisions of this chapter shall be reapproved and continued in effect. If the director finds that a favorable vote has been given, he shall so certify and all provisions of this chapter shall remain effective. If the director finds that a favorable vote has not been given, he shall so certify and declare the operation of the provisions of this chapter and the commission suspended upon the expiration of the marketing season ending August 31, 1986. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 69104. No bond or security shall be required for any such referendum.

69102. Following a favorable referendum conducted prior to August 31, 1986, a referendum shall be conducted by the commission every fifth year thereafter between October 1st and January 31st, following procedures provided by this section, unless a referendum is conducted as the result of a petition pursuant to Section 69103. In such case the referendum shall be every fifth year following the industry petitioned referendum.

69103. Upon a finding by a two-thirds vote of the commission that the operation of the provisions of this chapter has not tended to effectuate its declared purposes, the commission may recommend to

the director that the operation of this chapter be suspended; provided, that any such suspension shall not become effective until the expiration of the current marketing season. The director shall, upon receipt of such recommendation, or may, after a public hearing to review a petition filed with him requesting such suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding season, cause a referendum to be conducted among the listed producers to determine if such operation and the operations of the commission shall be suspended. The director shall establish a referendum period, which shall not be less than 10 nor more than 60 days in duration. The director is authorized to prescribe such additional procedures as may be necessary to conduct such a referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during such period. If at least 40 percent of the total number of producers from the list established by the director, participate in the referendum, the director shall continue the operation of this chapter, if he finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of continuation, and the producers so voting marketed a majority or more of the total quantity of pistachios marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) That a majority of the producers who voted in the referendum voted in favor of continuation, and that the producers so voting marketed 65 percent or more of the total quantity of pistachios marketed in the preceding season by all of the producers who voted in the referendum.

69104. After the effective date of suspension of the operation of the provisions of this chapter and of the commission, the operations of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season; provided further, however, that if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro rata refund to such persons, any such moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.

69105. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all producers affected by the suspension whose names and addresses are on file.

SEC. 2. No appropriation is made by this act pursuant to Section

2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 603

An act to amend Section 4677 of the Welfare and Institutions Code, relating to developmental services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 4677 of the Welfare and Institutions Code is amended to read:

4677. Effective July 1, 1977, all parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan. In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

Parental fee schedules shall be evaluated pursuant to the provisions of Section 4785 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of such care and the ability of the family to pay.

In addition to parental contributions and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when such funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department until June 30, 1983, for the purposes of this section. In no event shall any such funds revert to the General Fund, except after June 30, 1983. Prior to July 1, 1983, the Department of Finance shall review the utilization and effectiveness of the Program Development Fund and shall report its findings to the Legislature.

The Legislative Analyst shall review and comment on the utilization and effectiveness of the Program Development Fund in connection with the annual budget hearings.

The department may allocate funds from the Program Development Fund for any legal purpose, provided, that such allocations are approved by the state council and provided that allocations of federal funds deposited in the Program Development Fund are consistent with the priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the future fiscal impact of such allocations on other state-supported programs for developmentally disabled persons. To the extent feasible, allocation decisions shall also take into consideration distribution of funds to geographic areas proportionate to such area's contributions to the Program Development Fund.

Under no circumstances shall the deposit of federal moneys into the Developmental Disabilities Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

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

In order to continue the appropriation of the Developmental Disabilities Program Development Fund, which expires June 30, 1980, it is necessary that this act take effect immediately.

CHAPTER 604

An act to amend Section 44282 of, and to add Section 44282.1 to, the Education Code, relating to school employees.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 44282 of the Education Code is amended to read:

44282. Subject matter examinations authorizing single-subject instruction shall be required for all subjects taught in California public schools, such subjects to be subsumed, as directed by the commission, under the following categories: English, physical

science, health science, life science, mathematics, social science, history, government, industrial arts, physical education, business, music, art, home economics, agriculture, and languages, including, but not limited to, French, Spanish, Russian, German, and Chinese. The commission shall list subject matter categories.

A general subject matter examination authorizing teaching multiple subjects shall include an examination of the candidate's knowledge of the following areas: English, social science, fine arts, general science, and mathematics.

SEC. 2. Section 44282.1 is added to the Education Code, to read:

44282.1. (a) In carrying out its duties prescribed by subdivision (h) of Section 44225, the commission shall not develop a new health science subject matter examination, but shall instead employ an existing health science subject matter examination for the purpose of certifying single subject instruction in health science.

(b) It is the intent of the Legislature that no funds be appropriated from the Teacher Credentials Fund, or any other fund, for the purpose of development of a health science subject matter examination by the commission.

CHAPTER 605

An act to amend Section 5244.1 of the Streets and Highways Code, relating to the Improvement Act of 1911.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 5244.1 of the Streets and Highways Code is amended to read:

5244.1. Whenever the total amount bid by the lowest responsible bidder plus the estimated amount of incidental costs would result in assessments under this division which exceed by more than 15 percent the engineer's estimate of cost of the proposed work to be assessed, as stated in the "Notice of Improvement" referred to in Section 5193, the legislative body shall direct the clerk to give notice by mail of such increase over the estimated cost.

CHAPTER 606

An act to add Chapter 1.5 (commencing with Section 8050) to Division 1 of Title 2 of the Government Code, relating to the Southwest Border Regional Commission.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Chapter 1.5 (commencing with Section 8050) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 1.5. SOUTHWEST BORDER REGIONAL COMMISSION

8050. The Legislature finds and declares that:

(a) The communities along the Mexican border face particular problems unique to the region.

(b) The state's ability to respond fairly and expeditiously to the needs of the region is essential.

(c) The Southwest Border Regional Commission, established pursuant to the Public Works and Economic Development Act of 1965, (P.L. 89-136), as amended, and comprised of the states of New Mexico, Arizona, Texas, and the Mexican border counties of California, was created for the purpose of developing a regional economic development plan for the border region.

(d) The establishment of a California Office of the Southwest Border Regional Commission would provide a focal point within state government to accomplish the goals of the commission.

8051. The California member of the Southwest Border Regional Commission is the Governor, or his designee, provided such designee is appointed by the Governor with the advice and consent of the Senate.

8052. There is in state government the California Office of the Southwest Border Regional Commission. The Governor shall appoint a director of the office, with the advice and consent of the Senate.

8053. The director may appoint a secretary and may employ such employees as are necessary to carry out the functions of the office.

8054. The office shall participate, to the fullest extent possible, in the development of the project proposals of the commission in such areas as transportation, health care, health delivery systems, vocational education, energy development, arts and cultural development.

8055. The director shall report to the Governor and the Legislature on an annual basis, regarding the projects of the commission and the activities of the office.

CHAPTER 607

An act to amend Sections 6522, 6536, 6545, 6545.1, 6560, and 6632 of the Business and Professions Code, relating to business and professions, and making an appropriation therefor.

[Approved by Governor July 17, 1980 Filed with
Secretary of State July 18, 1980]

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

SECTION 1. Section 6522 of the Business and Professions Code is amended to read:

6522. The provisions of this chapter do not apply to:

(a) Persons authorized by the law of this state to practice medicine and surgery or osteopathy or chiropractic or persons holding a drugless practitioner certificate under the laws of this state.

(b) Commissioned medical or surgical officers of United States Army, Navy or Marine hospital service.

(c) Registered nurses.

(d) Persons licensed to practice cosmetology.

However, the provisions of this section do not authorize any of the persons exempted to shave or trim the beard, or cut the hair of any person for cosmetic purposes except that persons included in subdivision (d) may cut the hair when the haircut is performed in a licensed cosmetology establishment.

SEC. 2. Section 6536 of the Business and Professions Code is amended to read:

6536. No college shall enroll or admit any student thereto unless the student prepares in duplicate a duly verified application. The application shall be in the form and contain the matters the board prescribes and shall be obtained by the student or the college from the board.

One copy of the application shall be retained by the college enrolling or admitting the student and the other copy shall be filed by the college with the board, together with an enrollment fee as prescribed by this chapter.

Any student who has filed an application for enrollment or attendance at a college as required by this section shall not be required to file another application to attend theory classes at another approved college which is in the immediate area of and under the same administration and ownership as the college at which he is enrolled; provided, adequate records are maintained at each separate college where the student is in training.

If the board determines from the information contained in the application filed with it that the applicant may not be eligible to take the examination after graduation in compliance with Section 6545, it shall give the applicant written notice thereof, stating the reason for the board's conclusion. An applicant receiving such a notice from the board may request a hearing thereon. Such notice shall be mailed from the office of the board within 30 days from the date the application for enrollment is received by the board. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 6545 of the Business and Professions Code is amended to read:

6545. The board shall issue a certificate of registration as a registered barber to a person who complies with all of the following:

(a) Files an application with the board in such form as it may prescribe accompanied by the application and examination fees.

(b) Has completed the proper grade in school as provided in Section 6546.5, or has an equivalent education, as determined by an examination conducted by an examining agency prescribed by the board.

(c) Is at least 17 years of age.

(d) Is not subject to denial pursuant to Section 480.

(e) Has graduated from a college approved by the board or has properly completed an apprentice training program approved by the board and conducted under the provisions of the Shelley-Maloney Apprentice Labor Standards Act of 1939 (Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code).

(f) Has passed a satisfactory examination conducted by the board to determine his fitness to practice as a registered barber.

(g) Has paid the certificate fee required by this chapter.

Any applicant for a certificate of registration to practice as a barber who fails the examination may file a new application accompanied by the required fees and take another examination.

SEC. 4. Section 6545.1 of the Business and Professions Code is amended to read:

6545.1. Any person is qualified to receive a certificate of registration to practice barbering who complies with each of the following:

(a) The applicant is at least 17 years of age.

(b) The applicant is not subject to denial pursuant to Section 480.

(c) The applicant has completed the proper grade in school as prescribed in Section 6546.5, or has an equivalent education to be determined by an examination conducted by an examining agency prescribed by the board.

(d) The applicant has either of the following:

(1) A valid cosmetology certificate issued by the California Board of Cosmetology and presents proof satisfactory to the board that the applicant has performed the acts of cosmetology in a properly licensed cosmetology establishment in California within the last two years immediately before filing the application, and proof of completion of a 400-hour course in a college approved by the board.

(2) Proof of completion of a 1600-hour course in a cosmetology school licensed by the California Board of Cosmetology, and proof of completion of a 400-hour course in a college approved by the board.

(e) The applicant provides such other information the board may require.

(f) The applicant has passed a satisfactory examination conducted by the board.

(g) The applicant has completed and filed an acceptable

application with the board and has paid the application, examination and certificate fees required by this chapter.

If the applicant fails to pass the examination, a new application may be filed, accompanied by the required application and examination fees, and another examination taken. In no event shall the applicant be permitted to practice barbering until such time as an examination is satisfactorily passed and a certificate of registration as a registered barber is received.

SEC. 5. Section 6560 of the Business and Professions Code is amended to read:

6560. Any person shall be granted a certificate of registration to practice barbering upon compliance with each of the following:

(a) Files an application with the board in such form as it may prescribe, accompanied by the application fee and an amount equal to the examination fee.

(b) The applicant is at least 17 years of age.

(c) The applicant is not subject to denial pursuant to Section 480.

(d) The applicant has completed the proper grade in school as provided in Section 6560.5, or has an equivalent education as determined by an examination conducted by an examining agency prescribed by the board.

(e) The applicant has either:

(1) A valid license or certificate of registration as a practicing barber or apprentice from another state or country which has substantially the same requirements for licensing or registering barbers or apprentices as required by this chapter for barbers and as required by this chapter for apprentices prior to the amendments made to this chapter during the 1979 portion of the 1979–80 Regular Session affecting the authorization to practice as an apprentice.

(2) Affidavits from at least two persons stating that the applicant has practiced as a barber or an apprentice in another state or country for a period of at least two years within the last five years immediately prior to filing the application in this state and has passed a satisfactory examination conducted by the board.

(f) Has paid the certificate fee required by this chapter.

Any applicant who fails to pass the examination may file a new application accompanied by the required fees and take another examination. In no event will a person be permitted to practice barbering without having received a certificate of registration as a registered barber.

In the event that an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5). The board shall reschedule the examination date for the applicant upon the applicant's payment of the penalty fee.

SEC. 6. Section 6632 of the Business and Professions Code is amended to read:

6632. The amount of the fees payable in connection with certificates of registration to practice barbering is as follows:

(a) The application fee shall be fixed by the board at not more than ten dollars ($10).

(b) The examination fee shall be fixed by the board at not more than twenty dollars ($20).

(c) The fee for issuance of the certificate is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued.

(d) The renewal fee shall be fixed by the board at not more than thirty dollars ($30) for each biennial renewal period.

(e) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed.

CHAPTER 608

An act to amend Sections 9262, 9262.5, 9264, 11309, 11509, 11511, 11820, 40000.7, and 42230 of, and to add Section 10752 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 9262 of the Vehicle Code is amended to read:

9262. (a) The fee for a license issued to manufacturers, manufacturer branches, distributors, distributor branches, transporters, representatives, and dealers shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable application fee of twenty-five dollars ($25).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) Where an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of fifteen dollars ($15).

(b) When the holder of a license as indicated above applies for special plates as provided in subdivision (b) of Section 11714, the fee for such plates and the annual renewal of such plates shall be the prevailing vehicle registration fee as set forth in Section 9250 during the period for which the special plates are issued or renewed.

SEC. 2. Section 9262.5 of the Vehicle Code is amended to read:

9262.5. The fee for a license issued to a lessor-retailer shall be:

(a) For the original license, except as provided by Section 42231, a nonrefundable application fee of twenty-five dollars ($25) and for

any branch office location license, an application fee of fifteen dollars ($15).

(b) For the annual renewal of a license, a fee of fifteen dollars ($15).

(c) Where an alteration of an existing license is caused by a firm name change or address change, a fee of fifteen dollars ($15).

SEC. 3. Section 9264 of the Vehicle Code is amended to read:

9264. (a) The fee for a license issued to an automobile dismantler shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable application fee of twenty-five dollars ($25).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) Where an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of fifteen dollars ($15).

(b) Should an automobile dismantler make an application for a license as a manufacturer, manufacturer branch, distributor, distributor branch, transporter, or dealer, he shall pay such additional fee as set forth under Section 9262.

(c) When the holder of an automobile dismantler's license as indicated above applies for special plates as provided for in subdivision (b) of Section 11505, the fee for such plates and the annual renewal of such plates shall be the prevailing vehicle registration fee as set forth in Section 9250 during the period for which the special plates are issued or renewed.

SEC. 4. Section 10752 is added to the Vehicle Code, to read:

10752. Every person who, with intent to prejudice, damage, injure, or defraud, acquires, possesses, sells, or offers for sale any genuine or counterfeit manufacturer's serial or identification number from or for, or purporting to be from or for, a vehicle or component part thereof shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

SEC. 5. Section 11309 of the Vehicle Code is amended to read:

11309. (a) The following fees for a vehicle verifier's permit shall be paid to the department:

(1) For the application and original permit, except as provided by Section 42231, a nonrefundable application fee of twenty-five dollars ($25).

(2) For an application for renewal, fifteen dollars ($15).

(b) All permits shall be renewed on a biennial basis. All original permits shall be issued for a period of not less than two years, except in the case of a probationary license which, in the discretion of the department, may be issued for a shorter term.

SEC. 6. Section 11509 of the Vehicle Code is amended to read:

11509. (a) The department, after notice and hearing, may

suspend or revoke the license issued to an automobile dismantler upon the determination that the person to whom the license was issued is not lawfully entitled thereto or has committed any of the following acts:

(1) Has made or knowingly or negligently permitted any illegal use of the special plates issued to him.

(2) Used a false or fictitious name or knowingly made any false statement or concealed any material fact in any application or other document filed with the department.

(3) Failed to provide and maintain a clear physical division between the type of business licensed pursuant to this chapter and any other type of business conducted at the established place of business.

(4) Has violated one or more terms and provisions of Division 3 (commencing with Section 4000) or any rules and regulations adopted pursuant thereto.

(5) Has violated any of the terms or provisions of Division 4 (commencing with Section 10500) or any rules and regulations adopted pursuant thereto.

(6) Has violated one or more terms and provisions of Chapter 3 (commencing with Section 11500) of Division 5 or any rules and regulations adopted pursuant thereto.

(7) Has violated one or more terms and provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or any rules and regulations adopted pursuant thereto.

(8) Has purchased, concealed, had in his possession, or otherwise acquired or disposed of a vehicle, or a part thereof, knowing it to be stolen.

(9) Has failed to meet and maintain the requirements for issuance of an automobile dismantler's license as provided in this code.

(10) Has failed to pay, within 30 days after written demand from the department, any fees or penalties due on vehicles acquired for dismantling which are not the subject of dispute. If the dismantler disputes the validity of such fees or penalties, the 30-day period shall not commence until the department, after review, has determined the fee or penalty to be due.

(11) Has submitted a check, draft, or money order to the department for any obligation or fees due the state and it is thereafter dishonored or refused payment upon presentation.

(12) Has failed to meet the terms and conditions of a previous agreement effected under the provisions of Section 11509.1.

(b) Any of the causes specified in Section 11503 as a cause for refusal to issue a license to an automobile dismantler applicant, shall be cause, after notice and hearing, to suspend or revoke a license and special plates issued to an automobile dismantler.

(c) Except as provided in Section 11509.1, every hearing as provided for in this chapter shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division

3 of Title 2 of the Government Code.

SEC. 7. Section 11511 of the Vehicle Code is amended to read:

11511. In any administrative action to revoke or suspend an automobile dismantler's license:

(a) Proof that a stolen vehicle of a type subject to registration under this code, or a part thereof, as found in the possession of, or upon the premises of, the dismantler shall constitute in evidence a prima facie presumption that the dismantler had knowledge that such vehicle was stolen. This presumption may be rebutted by satisfactory evidence that the dismantler has complied with the provisions of paragraphs (1), (2), (3), and (5) of subdivision (a) of Section 11520.

(b) Proof that a vehicle of a type subject to registration under this code is found in a partially dismantled condition in the possession of, or upon the premises, of the dismantler shall constitute in evidence a prima facie presumption that the vehicle was partially dismantled by the dismantler. The presumption may be rebutted by a business record of the dismantler reflecting the partially dismantled condition of the vehicle on the date of acquisition.

SEC. 8. Section 11820 of the Vehicle Code is amended to read:

11820. The following fees shall be paid to the department:

(a) Except as provided by Section 42231, a nonrefundable application fee for the original issuance of a license, thirty dollars ($30).

(b) Renewal fee, twenty dollars ($20).

(c) Late renewal fee, five dollars ($5).

(d) Duplicate license, fifteen dollars ($15).

SEC. 9. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Section 2416, relating to regulations for emergency vehicles.

Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

Section 2800.1, relating to fleeing from a peace officer.

Section 2801, relating to failure to obey a fireman's lawful order.

Section 2803, relating to unlawful vehicle or load.

Section 2815, relating to failure to obey a crossing guard's traffic signal or direction.

Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

Section 5901, relating to dealers and lessor-retailers giving notice.

Section 5901.1, relating to lessors giving notice and failure to pay fee.

Section 8802, relating to the return of canceled, suspended, or revoked certificates of ownership, registration cards, or license plates, when committed by any person with intent to defraud.

Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, transporter,

dismantler, or salesman.

SEC. 10. Section 42230 of the Vehicle Code is amended to read:

42230. Whenever any application made under this code is accompanied by any fee, except an application for an occupational license accompanied by a fee as specified in Section 9262, 9262.5, 9264, 11309, or 11820, or an application for a duplicate driver's license, as required by law, and the application is refused or rejected, the fees shall be returned to the applicant except that whenever any application is made for the first set of special plates under subdivision (a) of Section 9262, and the application is refused or rejected, the fee for the special plates only shall be returned to the applicant, or when application is made for the first set of special plates under subdivision (1) of Section 9264 and the application is refused or rejected, the fee for the special plates shall be returned to the applicant.

SEC. 11. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 609

An act to amend Section 11580.9 of the Insurance Code, relating to insurance.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 11580.9 of the Insurance Code is amended to read:

11580.9. (a) Where two or more policies affording valid and collectible automobile liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, and one of such policies affords coverage to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing motor vehicles, then both of the following shall be conclusively presumed:

(1) If, at the time of loss, the motor vehicle is being operated by any person engaged in any of such businesses, or by his employee or agent, the insurance afforded by the policy issued to the person engaged in such business shall be primary, and the insurance afforded by any other policy shall be excess.

(2) If, at the time of loss, the motor vehicle is being operated by any person other than as described in paragraph (1), the insurance afforded by the policy issued to any person engaged in any of such businesses shall be excess over all other insurance available to such operator as a named insured or otherwise.

(b) Where two or more policies are applicable to the same loss, and one of such policies affords coverage to a named insured engaged in the business of renting or leasing commercial vehicles without operators, as the term "commercial vehicles" is used in Section 260 of the Vehicle Code, or the leasing of any other motor vehicle for six months or longer, it shall be conclusively presumed that the insurance afforded by such policy to a person other than the named insured or his agent or employee shall not be primary, but shall be excess over any other valid and collectible insurance applicable to the same loss covering such person as a named insured or as an additional insured under a policy with limits up to the financial responsibility requirements specified in Section 16056 of the Vehicle Code; and, in such event, the two or more policies shall not be construed as providing concurrent coverage, and only that policy which covers the liability of such person as a named insured, or as an agent or employee of a named insured, shall be primary and the other policy or policies shall be excess.

(c) Where two or more policies are applicable to the same loss arising out of the loading or unloading of a motor vehicle, and one or more of the policies is issued to the owner, tenant, or lessee of the premises on which the loading or unloading occurs, it shall be conclusively presumed that the insurance afforded by the policy covering the motor vehicle shall not be primary, notwithstanding anything to the contrary in any endorsement required by law to be placed on such policy, but shall be excess over all other valid and collectible insurance applicable to the same loss with limits up to the financial responsibility requirements specified in Section 16056 of the Vehicle Code; and, in such event, the two or more policies shall not be construed as providing concurrent coverage, and only the insurance afforded by the policy or policies covering the premises on which the loading or unloading occurs shall be primary and such policy or policies shall cover as an additional insured with respect to the loading or unloading operations all employees of such owner, tenant, or lessee while acting in the course and scope of their employment.

(d) Except as provided in subdivisions (a), (b), and (c), where two or more policies affording valid and collectible liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, it shall be conclusively presumed that the insurance afforded by that policy in which such motor vehicle is described or rated as an owned automobile shall be primary and the insurance afforded by any other policy or policies shall be excess.

(e) Any insurance policy which, under the terms of subdivisions (a) to (d), inclusive, applies as excess coverage may provide, with

respect to any primary policy or to any loss to which primary insurance is not valid and collectible in whole or in part, that such excess policy shall apply only to the extent necessary to provide the insured with the coverage limits specified in Section 16056 of the Vehicle Code.

(f) The presumptions stated in subdivisions (a) to (d), inclusive, may be modified or amended only by written agreement signed by all insurers who have issued a policy or policies applicable to a loss described in such subdivisions and all named insureds under such policies.

CHAPTER 610

An act to amend Sections 16113, 16115, 60400, 60401, and 60405 of, and to add Sections 16113.6, 16113.7, and 16113.8 to, and to repeal and add Section 16114 of, the Government Code, and to amend Sections 1152, 5391, 5392, and 26483 of, and to repeal Chapter 5 (commencing with Section 5421) of, the Revenue and Taxation Code, and to amend Sections 19 and 20.20 of, and to repeal Section 19.80 of, Chapter 1150 of the Statutes of 1979, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 16113 of the Government Code is amended to read:

16113. (a) Each county auditor shall file a claim with the Controller on or before the last day of August of each year for reimbursement to local governmental agencies for the tax loss attributable to property on the unsecured roll by reason of the reduced assessment ratio of commercial passenger fishing vessels provided for in subdivision (c) of Section 227 of the Revenue and Taxation Code.

(b) Each county auditor shall file a claim with the Controller on or before October 31 of each fiscal year for reimbursement to local governmental agencies for the tax loss attributable to property on the secured roll by reason of the reduced assessment ratio of commercial passenger fishing vessels provided for in subdivision (c) of Section 227 of the Revenue and Taxation Code.

(c) For the 1980–81 fiscal year, and each fiscal year thereafter, the amount the state shall reimburse local governmental jurisdictions for revenue loss by reason of the exemption for business inventories provided for in Section 219 of the Revenue and Taxation Code, and for livestock as provided for in Section 5523 of such code, shall be computed as follows:

(1) For the 1980–81 fiscal year, the sum of the reimbursements for all local governmental jurisdictions within a county shall equal twice the amount of money that would have been allocated for the 1979–80 fiscal year to the jurisdictions if the inventory exemption reimbursement had been predicated on the jurisdictions' share of the proceeds from a countywide property tax rate of four dollars ($4) per one hundred dollars ($100) of assessed valuation including the amount such jurisdictions would have received if such amount had not been subtracted pursuant to the provisions of Section 16117, plus 170 percent of the livestock exemption reimbursement for the 1979–80 fiscal year, with the resulting total sum to be increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

(2) For 1981–82 fiscal year and each fiscal year thereafter, the sum of the reimbursements for all local governmental jurisdictions within a county shall be equal to the reimbursement computed for the prior fiscal year, increased by a percentage equal to the State Reimbursement for Inventory Tax Factor for counties.

(d) With respect to the 1980–81 fiscal year and each fiscal year thereafter, each county auditor shall file a claim with the Controller on or before October 31 of each fiscal year for reimbursement to local jurisdictions for the amount computed pursuant to subdivision (c).

Proceeds received from the Controller pursuant to such claims shall be apportioned by the auditor to local governmental jurisdictions as property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(e) For purposes of this section, "State Reimbursement for Inventory Tax Factor" means:

(1) For cities, counties, and special districts: the percentage change in cost of living (as determined pursuant to Section 2212 of the Revenue and Taxation Code) plus the percentage change in the population of the city, county, or special district (as determined pursuant to Section 2227 or 2228 of the Revenue and Taxation Code). The percentage change in the population of a redevelopment agency shall be the percentage change in the population of the city or county in which the redevelopment agency is located.

(2) For school districts, county superintendents of schools and community college districts: the percentage change in the cost of living (as determined pursuant to Section 2212 of the Revenue and Taxation Code) plus the percentage change in the ADA of the school district or community college district.

SEC. 1.5. Section 16113.6 is added to the Government Code, to read:

16113.6. (a) Each county auditor shall file a claim with the Controller on or before the last day of August of each year for reimbursement to local government jurisdictions for the tax loss attributable to the extension of the exemption for business inventories provided for in Section 219 of the Revenue and Taxation

Code to aircraft as defined in Section 5303 of the Revenue and Taxation Code.

(b) For the 1980–81 fiscal year, the sum of the reimbursements pursuant to this section for all local government jurisdictions within a county shall be an amount equal to the claims that would have been filed had the business inventory exemption for aircraft been 100 percent in 1979–80, the tax rate on such property four dollars ($4) per one hundred dollars ($100) of assessed value and had the exemption applied to the aircraft described in subdivision (a), the resulting sum to be increased by a percentage equal to the State Reimbursement for Inventory Tax Factor as defined in Section 16113.

(c) For the 1981–82 fiscal year and each fiscal year thereafter, the sum of the reimbursements for all local governmental jurisdictions within a county shall be equal to the reimbursement computed for the prior fiscal year increased by a percentage equal to the State Reimbursement for Inventory Tax Factor for counties as defined in Section 16113.

(d) Proceeds received from the Controller shall be apportioned by the auditor to local government jurisdictions in the same proportion as revenues were distributed in the 1979–80 fiscal year pursuant to Chapter 6 (commencing with Section 5451) of Part 10 of Division 1 of the Revenue and Taxation Code.

SEC. 1.7. Section 16113.7 is added to the Government Code, to read:

16113.7. (a) Each county auditor shall file a claim with the Controller on or before the last day of August of each year for reimbursement to the county for the tax loss attributable to the repeal of Sections 991, 2193.3, and 2193.5 of the Revenue and Taxation Code.

(b) For the 1980–81 fiscal year, the reimbursement pursuant to this section for each county shall be an amount equal to the tax levied on the full cash value of cotton in the baled form collected by the county for the 1979–80 fiscal year and increased by a percentage equal to the State Reimbursement for Inventory Tax Factor for counties as defined in Section 16113.

(c) For the 1981–82 fiscal year and each fiscal year thereafter, the reimbursement for each county shall be equal to the reimbursement computed for the prior fiscal year increased by a percentage equal to the State Reimbursement for Inventory Tax Factor for counties as defined in Section 16113.

SEC. 1.8. Section 16113.8 is added to the Government Code, to read:

16113.8. (a) Each county auditor shall file a claim with the Controller on or before the last day of August of each year for reimbursement to local government jurisdictions for the tax loss attributable to the extension of the exclusion for air and ground time spent within the state by certificated aircraft prior to its first revenue flight provided for in Section 1152 of the Revenue and Taxation Code.

(b) For the 1980–81 fiscal year, the sum of the reimbursements pursuant to this section for all local governmental jurisdictions within a county shall be an amount equal to the claims that would have been filed under the exclusion, had the tax rate on such property been four dollars ($4) per one hundred dollars ($100) of assessed value, the resulting sum to be increased by a percentage equal to the State Reimbursement for Inventory Tax Factor as defined in Section 16113.

(c) For the 1981–82 fiscal year and each fiscal year thereafter, the sum of the reimbursements for all local governmental jurisdictions within a county, shall be equal to the reimbursement computed for the prior fiscal year increased by a percentage equal to the State Reimbursement for Inventory Tax Factor for counties as defined in Section 16113.

(d) Proceeds received from the Controller shall be apportioned by the auditor to local government jurisdictions in the same proportion as revenues were distributed in the 1979–80 fiscal year pursuant to Chapter 6 (commencing with Section 5451) of Part 10 of Division 1 of the Revenue and Taxation.

SEC. 2. Section 16114 of the Government Code is repealed.

SEC. 2.5. Section 16114 is added to the Government Code, to read:

16114. (a) For the 1980–81 fiscal year, for the purpose of computing assessed valuation for the purposes of Section 33670 of the Health and Safety Code, there shall be added to the actual assessed valuation as shown on the assessment roll, an amount equal to the assessed valuation of business inventories in the project area in the 1979–80 fiscal year multiplied by the quotient derived by dividing four dollars ($4) by the tax rate applicable within the project area, with the resulting amount to be increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

(b) For the 1981–82 fiscal year and each fiscal year thereafter, for the purpose of computing assessed valuation for the purpose of Section 33670 of the Health and Safety Code, there shall be added to the actual assessed valuation shown on the assessment roll an amount equal to the assessed valuation of business inventories in the project area computed for the prior fiscal year, pursuant to subdivision (a), increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

SEC. 2.6. Section 16115 of the Government Code is amended to read:

16115. (a) Out of the amount appropriated by Section 16100, the Controller shall pay on or before September 15th of each year to each county auditor the amount claimed under subdivision (a) of Section 16113.

(b) Out of the amount appropriated by Section 16100, the Controller shall pay on or before December 30th of each year to the county auditor one-half of the amount claimed under subdivision (b) of Section 16113 and shall pay the other one-half so claimed on or

before April 30th.

(c) Out of the amount appropriated by Section 16100, the Controller shall pay on or before November 15th of each year to each county auditor the amount claimed under subdivision (d) of Section 16113.

(d) Out of the amount appropriated by Section 16100, the Controller shall pay on or before October 15 of each year to each county auditor the amount claimed under subdivision (a) of Section 16113.6.

(e) Out of the amount appropriated by Section 16100, the Controller shall pay on or before October 15 of each year to each county auditor the amount claimed under subdivision (a) of Section 16113.7.

(f) Prior to paying any claim pursuant to subdivisions (a) and (b), the Controller shall reduce the amount of the counties' share by an amount equal to the amount of excess transfer as determined pursuant to paragraph (3) of subdivision (b) of Section 16260.

(g) "Excess transfer" means that the amount of money subtracted pursuant to paragraphs (2) and (3) of subdivision (b) of Section 16260 which is larger than the amount in paragraph (1) of such subdivision.

(h) The amount subtracted pursuant to subdivision (f) shall serve to reduce the county amount only and not any amount for any school district, community college district, county superintendent of schools, or other local agency, other than the county.

SEC. 2.7. Section 60400 of the Government Code is amended to read:

60400. As used in this chapter, "district" means any flood control district or any maintenance area formed pursuant to Chapter 4.5 (commencing with Section 12878) of Part 6 of Division 6 of the Water Code, which district or area is authorized under the principal act of the district to levy or to have levied on its behalf an ad valorem assessment or ad valorem tax within the district, or any zone thereof, and the Collinsville Levee District formed pursuant to Chapter 310 of the Statutes of 1905, and Levee District No. 1 of Sutter County formed pursuant to Chapter 349 of the Statutes of 1873–74. For the purposes of this chapter, "board of supervisors" shall include the trustees of the Collinsville Levee District.

SEC. 2.8. Section 60401 of the Government Code is amended to read:

60401. In addition to levying an ad valorem tax or ad valorem assessment for flood control services, or for the purposes set forth in Chapter 310 of the Statutes of 1905, the board of supervisors may, by ordinance, and an independent board of directors of a flood control district may, by resolution, levy an assessment on each parcel of real property within the district, or any zone thereof, on the basis of estimated benefit sufficient to cover the cost not otherwise offset by other available revenue of providing flood control services or for the purposes set forth in Chapter 310 of the Statutes of 1905, within the

district, or any zone thereof, except that the board of supervisors shall not impose an assessment upon a federal or state governmental agency or another local agency. Benefits received may be determined on the basis of the proportionate storm water runoff from each parcel.

SEC. 2.9. Section 60405 of the Government Code is amended to read:

60405. The board of supervisors may thereafter, in each year, prior to the time of fixing the county tax rate estimate the cost of providing flood control services, or for the purposes set forth in Chapter 310 of the Statutes of 1905, within the district, or any zone thereof, during the ensuing year. The board of supervisors may, in addition to all other taxes, levy for purposes of providing flood control services, or for the purposes set forth in Chapter 310 of the Statutes of 1905, an assessment each year upon the real property in the district, or any zone thereof, sufficient to pay such expense.

SEC. 3. Section 1152 of the Revenue and Taxation Code is amended to read:

1152. The allocation formula to be used by each assessor is as follows:

(a) For the 1980–81 fiscal year and fiscal years thereafter, the time in state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft has spent within the state prior to the aircraft's first revenue flight shall be excluded from the computation of the time in state factor. This factor shall be multiplied by 75 percent.

(b) Arrivals and departures is the number of arrivals in and departures from airports within the state of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports both within this state and elsewhere in the representative period. This factor shall be multiplied by 25 percent.

(c) The time in state factor shall be added to the arrivals and departures factor.

(d) The figure produced by application of subdivision (c) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

SEC. 3.5. Section 5391 of the Revenue and Taxation Code is amended to read:

5391. For the 1980–81 fiscal year and each fiscal year thereafter, aircraft subject to this part shall be taxed at the same rate and in the same manner as all other personal property. Aircraft which are considered business inventories, within the meaning of Section 129 of the Revenue and Taxation Code, shall be included in the inventory exemption.

SEC. 4. Section 5392 of the Revenue and Taxation Code is

amended to read:

5392. The tax on aircraft subject to this part shall be collected in the same manner as all other personal property.

SEC. 5. Chapter 5 (commencing with Section 5421) of Part 10 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 6.5. Section 26483 of the Revenue and Taxation Code is amended to read:

26483. All money deposited in the Financial Aid to Local Agencies Fund is hereby appropriated subject to the provisions of the budget bill. On or before the last day of June and on or before the last day of December the balance in the Financial Aid to Local Agencies Fund shall be allocated by the Controller to cities and counties in the following manner and amount:

(a) For the June allocation, one-half of the amount to be allocated to cities and counties shall be distributed based on population. The cities' allocation would be determined based on the proportion that the population of each city bears to the total population of California. The counties' allocation would be determined based on the proportion that the population residing in the unincorporated area of each county bears to the total population of California.

(b) The balance of the June allocation shall be allocated to cities and counties in the following manner:

(1) An amount shall be computed for each county by dividing the balance of the June allocation among counties in the same proportion that the amount of AFDC benefits paid to residents of each county during January, February, and March of the year bears to the total of all AFDC benefits paid to residents of California during the same period.

(2) For each city, and for the unincorporated area within each county, an amount shall be computed equal to the population of the city or the unincorporated area of the county divided by the per capita personal income of residents of the city or unincorporated area. For purposes of this paragraph, the population and per capita personal income figures shall be those used in the latest entitlement period for calculations of Federal Revenue Sharing funds under the Federal State and Local Fiscal Assistance Act of 1972 as amended.

(3) The Controller shall allocate the amounts determined pursuant to paragraph (1) among the county and the cities within the county in the same proportion that the amount computed pursuant to paragraph (2) for each city and the unincorporated area of the county bears to the total of such amounts computed pursuant to paragraph (2) for all cities and the unincorporated area of the county. The amount computed pursuant to this paragraph with respect to the unincorporated area of the county shall be the county's share of the June allocation.

(c) For the December allocation, the same procedure shall be followed as for the June allocation, but "July, August and September" shall be substituted for "January, February and March."

(d) For purposes of this section a city includes a city and county.

(e) Notwithstanding any other provision of this section, for fiscal years 1980–81 and 1981–82 only, before the allocation is made pursuant to subdivision (c), the Controller shall make an allocation on or before the last day of December in the following manner and amounts:

(1) For a redevelopment agency which is within a county having a population of 5,000,000 persons or more, and which is within a general law city having a population of not less than 30,000 persons and not more than 36,000 persons, and which has a redevelopment project area of more than 500 acres and less than 1,300 acres as of September 1, 1979. The allocation shall equal one hundred fifty thousand dollars ($150,000).

(2) For a redevelopment agency which is within a county having a population of 5,000,000 persons or more, and which is within a general law city having a population of not less than 36,000 persons and not more than 41,000 persons, and which has a redevelopment project area of more than 500 acres and less than 1,300 acres as of September 1, 1979. The allocation shall equal fifty thousand dollars ($50,000).

(3) For a redevelopment agency which is within a county having a population of 5,000,000 persons or more, and which is in a charter city having a population of not less than 70,000 persons and not more than 80,000 persons, and which has a redevelopment project area of not less than 100 acres and not more than 1,400 acres as of September 1, 1979. The allocation shall equal three hundred thousand dollars ($300,000).

SEC. 7. Section 19 of Chapter 1150 of the Statutes of 1979 is amended to read:

Sec. 19. Sections 1 to 4, inclusive, and Section 6 shall apply to computations made for the 1980–81 fiscal year and fiscal years thereafter. Sections 5 and 7 and Sections 8 to 11, inclusive, shall apply with respect to taxes imposed for and reimbursements claimed for the 1980–81 fiscal year. Sections 5.5, 7.3, 7.5, and 7.7 shall become operative with respect to the 1980–81 fiscal year and fiscal years thereafter.

SEC. 8. Section 19.80 of Chapter 1150 of the Statutes of 1979 is repealed.

SEC. 9. Section 20.20 of Chapter 1150 of the Statutes of 1979 is amended to read:

Sec. 20.20. The Office of Economic Planning, Policy and Research Development of the Department of Economic and Business Development shall report to the Legislature no later than December 31, 1980, on the amount of economic stimulus generated by the passage of this act, including specific data as to the effect on state revenues.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Chapter 1150 of the Statutes of 1979 eliminated business inventory taxes commencing with the 1980–81 fiscal year. Chapter 1150 established a formula to reimburse local governments for the loss of business inventory taxes. However, the reimbursement formula did not specifically include redevelopment agencies. Thus, in order to correct the situation, it is necessary for this act to take effect immediately.

SEC. 11. The Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act. The report shall be made on or before the first day of October next following the operative date of this act for claims made under subdivision (a) of Section 16113 and shall be made on or before the first day of December next following the operative date of this act for claims made under subdivision (b) of Section 16113. The report shall be made in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

SEC. 11.5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 12. Sections 1.5 and 2.5 shall not be operative for any fiscal year in which all of the available funds allocated by the state pursuant to Chapter 1.5 (commencing with Section 16110) of Part 1 of Division 4 of Title 2 of the Government Code are deducted from the county, city and county, city, and special district share of such funds pursuant to Section 100.5 of the Revenue and Taxation Code.

SEC. 13. This act provides that the 100 percent exemption for business inventories shall apply to aircraft beginning with the 1980–81 fiscal year. The Legislature finds and declares that there is a public purpose for the expenditure of these public funds; namely, to prevent the inequity that would result if all other businesses received a business inventory exemption and aircraft dealers did not; to correct the oversight by which the exemption was not extended to aircraft and provide, thereby, fairness in the tax system; and to complete the elimination of the tax on business inventories which has been found to be detrimental to the business climate of the state and therefore the general welfare of its citizens.

SEC. 14. The Legislature finds and declares that time spent within the state by a certificated aircraft prior to its first revenue flight is not representative of that aircraft's "normal physical presence within the state" as that phrase is used in Section 1151 of the Revenue and Taxation Code. The inclusion of such pre-revenue flight time in the allocation formula established pursuant to

subdivision (a) of Section 1152 of the Revenue and Taxation Code distorts the predicted pattern of usage within the state during the ensuing tax year and creates an arbitrary and disciminatory basis for allocation of the taxable value of the aircraft. Section 3 of this act, which provides for the continued exclusion of time-in-state prior to an aircraft's first revenue flight from the allocation formula established in Section 1152 of the Revenue and Taxation Code, is necessary to carry out the legislative scheme for taxation of certificated aircraft and to prevent arbitrary and discriminatory taxation of newly acquired aircraft. Accordingly, the application of Section 1152 of the Revenue and Taxation Code as amended by Section 3 of this act to the 1980–81 fiscal year is necessary to accomplish these public purposes.

CHAPTER 611

An act to amend Section 14670.35 of the Government Code, relating to state property.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 14670.35 of the Government Code is amended to read:

14670.35. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Developmental Services, may let in the best interests of the state and at a price which will permit the development of affordable housing for persons eligible under this section, to any person, including but not limited to any corporation or partnership, real property not exceeding 60 acres located within the grounds of Fairview State Hospital, for the purpose of developing affordable housing, which may include manufactured housing, for the employees of Fairview State Hospital, and for a period not to exceed 55 years. The lease authorized by this section shall be nonassignable, except it may be assignable, subject to approval by the Department of General Services and the State Department of Developmental Services, to a partnership in which the lessee has an interest of not less than 50 percent or to an individual, corporation or partnership which has a net worth of at least three million dollars ($3,000,000) and has experience substantially equal to that of the lessee in building, marketing, managing and leasing residences of the type to be built under the lease, and shall be subject to review every five years by the Director of General Services, to assure the state that the original purposes of the lease are being carried out.

In the event of default by the lessee under the terms of the lease,

the state shall take all necessary steps to cure such default but in no event shall state general funds, except funds collected pursuant to Section 15863, be expended to operate the property.

The housing developed pursuant to this section shall be available for the employees of Fairview State Hospital and to provide transitional housing for patient-clients of Fairview State Hospital returning to the community; provided that the housing available for transitional housing for patient-clients shall not be in excess of 10 percent of the units developed. In the event that vacancies occur in the units which cannot be filled by either employees of Fairview State Hospital or transitional patient-clients, then the units may be made available to persons employed within the City of Costa Mesa who are in need of affordable housing and whose incomes do not exceed 80 percent of the median income for Orange County as that income may be defined from time to time by the United States Department of Housing and Urban Development. Should any vacancies exist in excess of 60 days after lessee has conducted a marketing program in cooperation with the Orange County Housing Authority and approved by the State Department of Developmental Services, and during the 60 days the vacancies were made available to employees, transitional patient-clients and persons whose incomes do not exceed 80 percent of the median income for Orange County, then, upon approval by the State Department of Developmental Services, the vacant units may be made available to any other persons employed in the City of Costa Mesa.

The Legislature finds and declares that the provision of decent and affordable housing for state employees and transitional patients, i.e. clients of state mental hospitals, is a public purpose of great statewide importance.

CHAPTER 612

An act to amend Sections 2658.7 and 2664 of the Labor Code, relating to employment.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 2658.7 of the Labor Code is amended to read:

2658.7. Any goods, assembled or partially assembled, whether found in the homeworker's home, in transit to or from the home, or in the manufacturer's or his contractor's possession, pursuant to an order obtained under Section 2656, which constitute evidence of a violation of industrial homework laws, shall be confiscated by the division and properly marked and identified.

A determination or decision that a violation of Section 2651 has been committed shall carry with it, in addition to whatever other penalties are imposed as prescribed in this act, forfeiture of the aforementioned confiscated goods, garments or products identified as goods, garments or products produced by illegal industrial homework, and placed in the custody of the division, which shall be charged with the responsibility of disposing of them.

The division shall have the power to make an investigation of any industry in which the utilization of industrial homework has been made unlawful by Section 2651, in order to determine compliance with Section 2651.

SEC. 2. Section 2664 of the Labor Code is amended to read:

2664. Any article or material which is being manufactured in a home in violation of any provision of this part may be removed by the division and may be retained by it for 30 days or until the final determination of any court action instituted by the division thereon. The division shall, by registered mail, give notice of such removal to the person whose name and address are affixed to the article or material as provided in this part. Such articles or materials so removed shall be disposed of in accordance with regulations, by the division.

CHAPTER 613

An act to amend Section 3940 of the Business and Professions Code, relating to fees, and making an appropriation therefor.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 3940 of the Business and Professions Code is amended to read:

3940. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for a nursing home administrator's license is not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

(b) The initial fee for a license is not less than fifty-five dollars ($55) nor more than one hundred dollars ($100).

(c) The renewal fee is not less than one hundred fifty dollars ($150) nor more than one hundred ninety dollars ($190).

(d) The delinquency fee is twenty-five dollars ($25).

(e) The reexamination fee is not less than ten dollars ($10) nor more than thirty dollars ($30).

(f) The administrator-in-training permit fee is not less than twenty-five dollars ($25) nor more than seventy-five dollars ($75).

(g) The duplicate license fee is not less than two dollars ($2) nor more than ten dollars ($10).

(h) Notwithstanding Sections 701 and 703, the inactive license fee is one hundred dollars ($100).

The board shall fix the fees, within the limits of the amounts prescribed in subdivisions (a), (b), (c), (e), (f), and (g) in such amounts as it determines are reasonably necessary to provide sufficient funds to carry out the purpose of this chapter.

CHAPTER 614

An act to amend Section 99234.7 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 99234.7 of the Public Utilities Code is amended to read:

99234.7. The Department of Transportation is authorized to negotiate and, if feasible, contract with the appropriate railroad corporation to provide passenger rail service between the City and County of San Francisco and the City of San Jose, and points in between, and to extend passenger rail service to points south of San Jose which are within the County of Santa Clara. In negotiating the contract, the department shall take into consideration the funding available and the level of service recommended by the Metropolitan Transportation Commission.

No state funds shall be committed or expended for carrying out the purposes of this section in extending passenger rail service to points south of San Jose unless there is an appropriation of funds in the Budget Act for such purposes.

Nothing in this section shall be construed so as to limit future rail services to other points within the County of Santa Clara. However, this paragraph shall not be construed as legislative approval of any extension of rail services within the county.

CHAPTER 615

An act to amend, add, and repeal Section 34501 of, and to add and repeal Section 40000.22 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor July 17, 1980 Filed with
Secretary of State July 18, 1980]

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

SECTION 1. Section 34501 of the Vehicle Code is amended to read:

34501. (a) The Department of the California Highway Patrol shall adopt reasonable rules and regulations which in the judgment of the department are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. Such rules and regulations shall not, however, be applicable to schoolbuses which shall be subject to rules and regulations adopted pursuant to Section 34501.5. The Commissioner of the Department of the California Highway Patrol shall appoint a committee of 15 members, consisting of representatives of industry subject to regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department is directed to cooperate and confer with the advisory committee so appointed.

The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with the provisions of this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt such regulations for the transportation of hazardous materials in this state, except for materials the transportation of which is subject to other provisions of this code, as the department determines reasonably necessary to ensure the safety of persons and property using the highways. Such regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that such shipments are correctly identified and in proper conditions for transport.

(c) At least once every 13 months the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus for the exclusive transportation of the following groups:

(1) Minors on organized outings.

(2) College students on organized outings.

(3) Elderly persons on organized outings.

(4) Groups consisting of a combination of those persons specified in paragraphs (1) to (3) inclusive, on organized outings.

(5) Workers being transported to and from a work location, except farm laborers and workers in buses designed to transport not

more than 16 persons and maintained exclusively for nonprofit transportation of adults to and from a work location as part of a carpool program.

(d) The Commissioner of the California Highway Patrol shall adopt and enforce regulations which will provide for the public or private users of any bus being made aware of the operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspection specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of vehicles from maintenance facilities or terminals found in violation of the provisions of this code and regulations adopted pursuant to this section.

(g) This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 2. Section 34501 is added to the Vehicle Code, to read:

34501. (a) The Department of the California Highway Patrol shall adopt reasonable rules and regulations which, in the judgment of the department, are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. Such rules and regulations shall not, however, be applicable to schoolbuses which shall be subject to rules and regulations adopted pursuant to Section 34501.5. The Commissioner of the California Highway Patrol shall appoint a committee of 15 members, consisting of representatives of industry subject to regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department shall cooperate and confer with the advisory committee so appointed.

The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with the provisions of this code and regulations adopted pursuant to this section.

The department may adopt regulations restricting or prohibiting the movement of vehicles from maintenance facilities or terminals found in violation of the provisions of this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt such regulations for the transportation of hazardous materials in this state, except for materials the transportation of which is subject to other provisions of this code, as the department determines reasonably necessary to ensure the safety of persons and property using the highways. Such regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for,

hazardous materials shipments, and the manner by which the shipper attests that such shipments are correctly identified and in proper conditions for transport.

(c) This section shall become operative on January 1, 1984.

SEC. 3. Section 40000.22 is added to the Vehicle Code, to read:

40000.22. A violation of subdivision (c) of Section 34501, as amended by the act enacting this section during the 1979–80 Regular Session of the Legislature, relating to inspections, shall constitute a misdemeanor and not an infraction.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 4. The Department of the California Highway Patrol shall on or before January 1, 1984, prepare and submit to the Legislature a report of its experiences and recommendations concerning inspections conducted pursuant to subdivision (c) of Section 34501 of the Vehicle Code, as amended by Section 1 of this act.

SEC. 5. The sum of five hundred fourteen thousand seven hundred forty dollars ($514,740) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to reimburse the Department of the California Highway Patrol for the costs of administering the provisions of the act.

SEC. 6. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 616

An act to amend Section 830.5 of the Penal Code, and to add Section 1808.2 to the Vehicle Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 830.5 of the Penal Code is amended to read:

830.5. (a) Any parole officer of the State Department of Corrections, placement or parole officer of the Youth Authority, probation officer, or deputy probation officer is a peace officer. Except as otherwise provided in this subdivision, the authority of any

such peace officer shall extend only (1) to conditions of parole or of probation by any person in this state on parole or probation; (2) to the escape of any inmate or ward from a state institution; (3) to the transportation of such persons; and (4) as provided in Section 8597 or 8598 of the Government Code, or when acting pursuant to Section 8617 of the Government Code. The authority of any parole officer of the State Department of Corrections shall further extend to violations of any penal provisions of law which are discovered in the course of and arise in connection with his employment.

(b) Any warden, superintendent, supervisor, or guard employed by the Department of Corrections, the Director of Corrections, any deputy director of the Department of Corrections, the Chief of Investigations of the Board of Prison Terms, any superintendent, assistant superintendent, supervisor, or employee having custody of wards, of each institution of the Department of the Youth Authority, and any transportation officer of the Department of the Youth Authority, is a peace officer. The authority of any such peace officer shall extend only (1) as is necessary for the purpose of carrying out the duties of his employment, and (2) as provided in Section 8597 or 8598 of the Government Code, or when acting pursuant to Section 8617 of the Government Code. When he is carrying out his duties, any such supervisor, guard, officer, or employee who is engaged in transportation of prisoners or apprehension of prisoners or wards who have escaped is a peace officer whether acting within or without this state.

(c) When, pursuant to Nevada law, an officer or employee of the Nevada State Prison has in his custody in California a prisoner of the State of Nevada whom he is transporting from the Nevada State Prison or any honor or forest camp in Nevada to another point in Nevada for the purposes of firefighting or conservation work, such officer or employee of the Nevada State Prison shall have the power to maintain custody of the prisoner in California and to retake the prisoner if he should escape in California to the same extent as if such officer or employee were a peace officer appointed with California law and the prisoner had been committed to his custody in proceedings under California law.

(d) Any peace officer under this section shall have the same status of a peace officer provided for in subdivision (a) or (b) of Section 830.2 for the purpose of obtaining any group insurance benefits available to such peace officers.

(e) Any peace officer under this section shall have the full powers and duties of a peace officer as provided by Section 830.1 when acting pursuant to Section 8617 of the Government Code.

SEC. 2. Section 1808.2 is added to the Vehicle Code, to read:

1808.2. In addition to those specified in Section 1808.4, the home address of any inspector or investigator regularly employed and paid as such in the office of a district attorney or any peace officer employee of the Board of Prison Terms appearing in any record of the department is confidential.

SEC. 3. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to the Department of Motor Vehicles during the 1980–81 fiscal year to reimburse costs incurred by the department in implementing the provisions of this act.

SEC. 4. Section 2 of this act shall become operative July 1, 1981.

CHAPTER 617

An act to amend Sections 9853, 9871, 9872, 10551, 10553, and 10554 of, and to add Sections 9871.5 and 10551.5 to, the Vehicle Code, relating to vessels.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 9853 of the Vehicle Code is amended to read:

9853. The owner of each vessel requiring numbering by this state shall file an initial application for a number with the department or with an agent authorized by the department on forms approved by the department. Such forms shall be prepared in cooperation with the Department of Boating and Waterways. The application shall contain the true name and address of the owner and of the legal owner, if any, and the hull identification number of the vessel as may be required by the department. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of five dollars ($5).

SEC. 2. Section 9871 of the Vehicle Code is amended to read:

9871. Upon application for original registration or transfer of registration of an undocumented vessel, the department may assign an appropriate hull identification number to such vessel whenever there is no hull identification number thereon, or when a hull identification number thereon has been destroyed or obliterated; and such hull identification number shall be permanently marked in an integral part of the hull which is accessible for inspection.

SEC. 3. Section 9871.5 is added to the Vehicle Code, to read:

9871.5. Upon application for renewal of registration of an undocumented vessel, the applicant is required to furnish the hull identification number if the records of the department do not contain such number. If the vessel does not have a hull number, the department may assign an appropriate hull identification number.

SEC. 4. Section 9872 of the Vehicle Code is amended to read:

9872. No person shall intentionally deface, destroy, or alter the hull identification number of a vessel required to be numbered under this chapter without written authorization from the department; nor shall any person place or stamp any serial or other

number or mark upon an undocumented vessel which might interfere with identification of the hull identification number. This does not prohibit the restoration by an owner of an original number or mark when the restoration is authorized by the department, nor prevent any manufacturer from placing, in the ordinary course of business, numbers or marks upon new vessels or new parts thereof.

SEC. 5. Section 10551 of the Vehicle Code is amended to read:

10551. Every peace officer upon receiving a report based on reliable information that any undocumented vessel numbered under this code has been stolen shall immediately after receiving such information report the theft to the Department of Justice, Automated Boat System, and such peace officer upon receiving information of the recovery of any such vessel which he has previously reported as stolen, shall immediately report the fact of the recovery to the Department of Justice, Automated Boat System.

SEC. 6. Section 10551.5 is added to the Vehicle Code, to read:

10551.5. The Department of Justice upon receiving notice under this chapter that a vessel has been stolen or that a vessel reported stolen has been recovered shall notify the Department of Motor Vehicles of the reported theft or recovery.

SEC. 7. Section 10553 of the Vehicle Code is amended to read:

10553. The owner or legal owner of a vessel numbered under this code which has been stolen or embezzled may notify a law enforcement agency of the theft or embezzlement, but in the event of an embezzlement may make the report only after having procured the issuance of a warrant for the arrest of the person charged with such embezzlement. Every owner or legal owner who has given any such notice shall notify the law enforcement agency of a recovery of the vessel.

SEC. 8. Section 10554 of the Vehicle Code is amended to read:

10554. The department upon receiving a report of a stolen or embezzled vessel shall place an appropriate notice in the electronic file system which will identify such vessel during the processing of new certificates of number, ownership, or number and ownership. When such vessels are thus identified, processing shall be discontinued and the agency holding the theft report and the Department of Justice shall be notified. New certificates shall not be issued until cleared by the Department of Justice. Notices shall remain in the Department of Motor Vehicles system until a Department of Justice deletion is received.

A report of a stolen or embezzled vessel is effective for a period of not less than one year from the date first reported, or for such longer period as the department may determine.

CHAPTER 618

An act to amend Section 1269b of the Penal Code and to add Section 40310 to the Vehicle Code, relating to offenses.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 1269b of the Penal Code is amended to read:

1269b. (a) The officer in charge of a jail where an arrested person is held in custody, an officer of a sheriff's department or police department of a city who is in charge of a jail or employed at a fixed police or sheriff's facility and is acting under an agreement with the agency which keeps the jail wherein an arrested person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by such department to collect bail, the clerk of the justice or municipal court of the judicial district in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending shall have authority to approve and accept bail in such amount as fixed by the warrant of arrest or schedule of bail or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information the bail shall be in the amount fixed by such judge at the time of such appearance; if no such appearance has been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant must appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior, municipal and justice court judges in each county to prepare, adopt, and from time to time revise, by a majority vote, at a meeting called by the presiding judge of the superior court of the county, a uniform countywide schedule of bail for all bailable felony offenses.

(d) It is the duty of the municipal and justice court judges in each county to prepare, adopt, and from time to time revise, subject to Section 40310 of the Vehicle Code, by a majority vote, at a meeting called by the presiding judge of the municipal court or the senior judge of the justice court at each county seat, a uniform, countywide schedule of bail for all misdemeanor and infraction offenses.

(e) Each countywide bail schedule shall contain a list of such

offenses and the amounts of bail applicable thereto as the judges determine to be appropriate. If the schedules do not list all offenses specifically, they shall contain a general clause for designated amounts of bail as the judges of the county determine to be appropriate for all such offenses not specifically listed in the schedules. A copy of the countywide bail schedule shall be sent to the officer in charge of the county jail, to the officer in charge of each city jail within the county, to each superior, municipal and justice court judge and commissioner in the county, and to the Judicial Council.

(f) Upon posting such bail the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, such judge or clerk of the court shall transmit all such money and surety bonds to the county clerk.

(g) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon his release from custody, the provisions of Sections 1305 and 1306 shall apply.

SEC. 2. Section 40310 is added to the Vehicle Code, to read:

40310. Notwithstanding subdivision (d) of Section 1269b of the Penal Code, relating to the adoption of a uniform schedule of bail for infractions, no bail shall be established for any infraction in an amount, exclusive of any applicable penalty assessment levied pursuant to Article 3 (commencing with Section 42050) of Chapter 1 of Division 18, in excess of the amount of the maximum fine pursuant to Section 42001 or 42001.5, and bail shall be set without regard to residence.

SEC. 3. Notwithstanding Section 2229, 2230, or 2231 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution, there shall be no reimbursement pursuant to those sections nor shall there be any appropriation made by this act because there are no state-mandated local costs in this act and any revenue loss implied herein is not reimbursable under those sections.

CHAPTER 619

An act to add Section 12945.5 to the Government Code, relating to employment practices.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 12945.5 is added to the Government Code, to read:

12945.5. It shall be an unlawful employment practice for an employer to require any employee to be sterilized as a condition of employment.

CHAPTER 620

An act to amend Section 69594 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 69594 of the Government Code is amended to read:

69594. In the County of San Bernardino there shall be 20 judges of the superior court; provided that at such time as the Board of Supervisors of San Bernardino County finds there are sufficient funds for one additional judge and adopts a resolution to that effect, there shall be 21 judges of the superior court.

SEC. 2. The sum of eighty-two thousand three hundred fifty-three dollars ($82,353) is hereby appropriated from the General Fund to the Controller without regard to fiscal year for allocation and disbursement upon the adoption by the Board of Supervisors of San Bernardino County of a resolution finding that there are sufficient funds for an additional judge of the superior court, as follows:

(a) In augmentation of Item 21, Budget Act of 1980, for the state's share of salaries of judges of the superior court as provided in Section 68206 of the Government Code	$22,353
(b) In augmentation of Item 22, Budget Act of 1980, for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act	60,000
	$82,353

CHAPTER 621

An act to amend Section 1 of Chapter 703 of the Statutes of 1969, to amend Section 25 of Chapter 1243 of the Statutes of 1971, to amend Section 2 of Chapter 1156 of the Statutes of 1976, to repeal Section 4 of Chapter 915 of the Statutes of 1978, to repeal Sections 66 and 67 of Chapter 1106 of the Statutes of 1977, to repeal Sections 1 and 2 of Chapter 611 of the Statutes of 1976, to repeal Sections 1 and 2 of Chapter 954 of the Statutes of 1976, and to repeal Sections 4 and 5 of Chapter 1428 of the Statutes of 1974, relating to transportation.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 1 of Chapter 703 of the Statutes of 1969 is amended to read:

Section 1. One of the primary methods of moving people in the urban areas of this state is the freeway system. The investment made in this system requires that it be used as effectively as possible to provide an efficient transit method. Thus, experimentation in the use of the freeway lanes is essential. By the enactment of this act, the Legislature intends to authorize and encourage the Department of Transportation to study and experiment with various methods of freeway use to discover the manner in which the freeway system in urban areas can be most effectively utilized.

SEC. 2. Section 25 of Chapter 1243 of the Statutes of 1971 is amended to read:

Sec. 25. By enacting Section 24 of this act to repeal Chapter 20 of the Statutes of 1952, Second Extraordinary Session, it is the intent of the Legislature that loans for the acquisition of properties for state highway purposes shall be retired by the operation of Section 2108 of the Streets and Highways Code.

Furthermore, it was not the intent of the Legislature in enacting Chapter 20 of the Statutes of 1952, Second Extraordinary Session, nor is it the intent of the Legislature in repealing this chapter, to establish any limit on the amount of funds utilized for the right-of-way advanced acquisition program. The California Transportation Commission and the Department of Transportation may use any available funds, including the money specified in Section 26 of this act, for temporary investment in the right-of-way advanced acquisition program.

SEC. 3. Section 2 of Chapter 1156 of the Statutes of 1976 is amended to read:

Sec. 2. The amendments made in Section 1 of this act shall be effective only from the period commencing July 1, 1977, to and including June 30, 1981.

SEC. 4. Section 4 of Chapter 915 of the Statutes of 1978 is

repealed.

SEC. 5. Section 66 of Chapter 1106 of the Statutes of 1977 is repealed.

SEC. 6. Section 67 of Chapter 1106 of the Statutes of 1977 is repealed.

SEC. 7. Section 1 of Chapter 954 of the Statutes of 1976 is repealed.

SEC. 8. Section 2 of Chapter 954 of the Statutes of 1976 is repealed.

SEC. 9. Section 1 of Chapter 611 of the Statutes of 1976 is repealed.

SEC. 10. Section 2 of Chapter 611 of the Statutes of 1976 is repealed.

SEC. 11. Section 4 of Chapter 1428 of the Statutes of 1974 is repealed.

SEC. 12. Section 5 of Chapter 1428 of the Statutes of 1974 is repealed.

CHAPTER 622

An act to amend Sections 9400, 23270, 23272, 23301, 35701, 35702, 35712, and 35714 of, to add Section 9401 to, and to repeal Section 8007 of, the Vehicle Code, relating to transportation.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 8007 of the Vehicle Code is repealed.

SEC. 2. Section 9400 of the Vehicle Code is amended to read:

9400. In addition to any other registration fee, there shall be paid the fees set forth in this section for the registration of commercial vehicles. Whenever a camper is temporarily attached to a motor vehicle designed to transport property, such motor vehicle shall be subject to the fees imposed by this section. The camper shall be deemed to be a load, and fees imposed by this section upon the motor vehicle shall be based upon the unladen weight of such motor vehicle, exclusive of the camper.

(a) For any electric vehicle designed, used, or maintained as described in this section, fees shall be paid for registration according to the following schedule:

Unladen Weight	Fee
Less than 6,000 lbs.	$54
6,000 lbs. or more but less than 10,000 lbs.	108
10,000 lbs. or more	145

(b) For any motor vehicle having not more than two axles and designed, used or, maintained as described in this section, other than an electric vehicle, fees shall be paid for registration according to the following schedule:

Unladen weight	Fee
Less than 3,000 lbs.	$5
3,000 lbs. to and including 4,000 lbs.	15
4,001 lbs. to and including 5,000 lbs.	32
5,001 lbs. to and including 6,000 lbs.	62
6,001 lbs. to and including 7,000 lbs.	83
7,001 lbs. to and including 8,000 lbs.	104
8,001 lbs. to and including 9,000 lbs.	124
9,001 lbs. to and including 10,000 lbs.	146
10,001 lbs. to and including 11,000 lbs.	165
11,001 lbs. to and including 12,000 lbs.	186
12,001 lbs. to and including 13,000 lbs.	207
13,001 lbs. to and including 14,000 lbs.	228
14,001 lbs. and over	247

(c) For any motor vehicle having three or more axles, or for any trailer, semitrailer, pole or pipe dolly, logging dolly, or other dolly designed, used, or maintained as described in this section, other than an electric vehicle, fees shall be paid for registration according to the following schedule:

Unladen weight	Fee
2,000 lbs. to and including 3,000 lbs.	$17
3,001 lbs. to and including 4,000 lbs.	31
4,001 lbs. to and including 5,000 lbs.	62
5,001 lbs. to and including 6,000 lbs.	92
6,001 lbs. to and including 7,000 lbs.	124
7,001 lbs. to and including 8,000 lbs.	155
8,001 lbs. to and including 9,000 lbs.	186
9,001 lbs. to and including 10,000 lbs.	217
10,001 lbs. to and including 11,000 lbs.	247
11,001 lbs. to and including 12,000 lbs.	278
12,001 lbs. to and including 13,000 lbs.	309
13,001 lbs. to and including 14,000 lbs.	341
14,001 lbs. to and including 15,000 lbs.	372
15,001 lbs. and over	413

(d) The provisions of this section shall not be applicable to any vehicle which is operated or moved over the highway exclusively for the purpose of historical exhibition or other similar noncommercial purpose.

SEC. 3. Section 9401 is added to the Vehicle Code, to read:

9401. (a) Motor vehicles manufactured in or prior to 1936, are exempted from the payment of the weight fees provided for in Section 9400.

(b) Notwithstanding subdivision (a), any person who owns and operates a commercial vehicle manufactured in or prior to 1936 which is registered to such person, may pay the appropriate weight fees, and the department shall issue license plates of the same type as are issued to vehicles which are required to pay weight fees for such vehicles.

SEC. 4. Section 23270 of the Vehicle Code is amended to read:

23270. (a) No person shall commence to tow any vehicle or other object on any vehicular crossing unless authorized to do so by the Department of Transportation and unless such towing is done by means of a tow car as defined in Section 615. No person other than a member of the California Highway Patrol or an employee of the Department of Transportation shall by means of pushing with another vehicle propel any vehicle or object on a vehicular crossing. No person other than an employee of the Department of Transportation shall on any vehicular crossing, tow any vehicle or other object except a vehicle or object constructed and designed to be towed by a vehicle of a type similar to that being used for such purpose.

(b) The California Transportation Commission shall, by regulation, establish the maximum towing fee which may be charged by any person authorized to tow a vehicle pursuant to subdivision (a). No such authorized person shall charge a fee for towing a vehicle which is in excess of such maximum fee established by the California Transportation Commission.

(c) The Director of Transportation may grant a special permit to any person to tow any vehicle or object over and completely across any vehicular crossing when in his judgment the towing vehicle is so constructed and equipped that the vehicle or object can be towed across the vehicular crossing without endangering persons or property and without interrupting the orderly traffic across the vehicular crossing.

(d) The prohibitions of this section shall apply only on those vehicular crossings upon which a towing service is maintained by the Department of Transportation.

SEC. 5. Section 23272 of the Vehicle Code is amended to read:

23272. When any vehicle or object on any vehicular crossing, upon which towing service is maintained, is stopped for any reason and is obstructing or may obstruct traffic, such vehicle or object shall be towed by the towing service either to the nearest property of the California Transportation Commission designated for the parking or storing of vehicles, or to a suitable parking location on a public street or highway and thereupon left in the custody of the owner or operator of the vehicle or object, or his agent, or, in the event no such owner, operator, or agent is present, or if such owner, operator, or agent so requests, to a public garage or off-street parking facility. The Department of Transportation may prescribe the limits within which the towing service authorized herein shall be operated.

Notwithstanding the foregoing provisions, the department may

furnish and deliver fuel to vehicles, the supply of which is exhausted, or change tires, and may charge a reasonable sum for the services and materials furnished, or if the department deems it safe and advisable, and the owner or operator of the vehicle or object so requests, it may be towed from the vehicular crossing.

SEC. 6. Section 23301 of the Vehicle Code is amended to read:

23301. Every vehicle which enters into or upon any vehicular crossing immediately becomes liable for such tolls and other charges as may from time to time be prescribed by the California Transportation Commission.

SEC. 7. Section 35701 of the Vehicle Code is amended to read:

35701. (a) Any city may by ordinance prohibit the use of a street to be described in the ordinance by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit to be specified in the ordinance, except with respect to any vehicle which is subject to the provisions of Sections 1031 to 1036, inclusive, of the Public Utilities Code.

(b) The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(c) No ordinance which is adopted pursuant to this section after the effective date of the amendments to this section enacted at the 1969 Regular Session shall apply to any state highway which is included in the national system of interstate and defense highways, except an ordinance which has been approved by the California Transportation Commission by a four-fifths vote.

SEC. 8. Section 35702 of the Vehicle Code is amended to read:

35702. No ordinance proposed under Section 35701 is effective with respect to any highway which is not under the exclusive jurisdiction of the local authority enacting the ordinance, or, in the case of any state highway, until the ordinance has been submitted by the governing body of the local authority to, and approved in writing by, the Department of Transportation. In submitting a proposed ordinance to the department for approval, the governing body of the local authority shall designate therein, an alternate route for the use of vehicles, which route shall remain unrestricted by any local regulation as to weight limits or types of vehicles so long as the ordinance proposed shall remain in effect. The approval of the proposed ordinance by the Department of Transportation shall constitute an approval by it of the alternate route so designated. No such ordinance which applies to any state highway included in the national system of interstate and defense highways, shall subsequently be disapproved until such disapproval has been concurred in by a four-fifths vote of the California Transportation Commission.

SEC. 9. Section 35712 of the Vehicle Code is amended to read:

35712. (a) Any county may by ordinance prohibit the use of any highway located in an unincorporated residential or subdivision area

by any commercial vehicle exceeding a gross weight of 14,000 pounds.

(b) Any county of the third class as defined by Section 28024 of the Government Code or of the ninth class as defined by Section 28030 of the Government Code may, by ordinance, prohibit the use of any highway located in an unincorporated residential or subdivision area by any commercial vehicle exceeding a gross weight of 5,000 pounds.

(c) This section does not apply to a vehicle operated by or on behalf of a public utility in connection with the installation, operation, maintenance, or repair of its facilities.

(d) No ordinance which is adopted pursuant to this section after the effective date of the amendments to this section enacted at the 1969 Regular Session of the Legislature shall apply to any state highway which is included in the national system of interstate and defense highways, except an ordinance which has been approved by the California Transportation Commission by a four-fifths vote.

SEC. 10. Section 35714 of the Vehicle Code is amended to read:

35714. No ordinance adopted pursuant to Section 35712 shall be effective with respect to:

(a) Any vehicle which is subject to the provisions of Article 2 (commencing with Section 1031) of Chapter 5 of Part 1 of Division 1 of the Public Utilities Code.

(b) Any highway, any portion of which is also under the jurisdiction of a city, unless the consent of the governing body of the city is first obtained.

(c) Any commercial vehicle coming from an unrestricted highway having ingress and egress by direct route to and from the restricted highway when necessary for the purpose of making pickups or deliveries of goods, wares, and merchandise from or to any building or structure located on the restricted highway or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling, or construction of any building or structure upon the restricted highway for which a building permit has previously been obtained.

(d) The operation of ambulances or hearses.

(e) Any vehicle owned, operated, controlled, or used by a public utility in connection with the construction, installation, operation, maintenance, or repair of any public utility facilities.

(f) Any state highway, until the proposed ordinance has been submitted by the board of supervisors of the county to and approved in writing by the Department of Transportation. In submitting a proposed ordinance to the department for approval, the board of supervisors shall designate therein, an alternate route for the use of the vehicles which shall remain unrestricted by any local regulation as to commercial vehicles so long as the ordinance proposed shall remain in effect. The approval of the proposed ordinance by the Department of Transportation shall constitute an approval by the department of the alternate route so designated. No such ordinance which applies to any state highway included in the national system

of interstate and defense highways, shall subsequently be disapproved until such disapproval has been concurred in by a four-fifths vote of the California Transportation Commission.

(g) Vehicles operated as an incident to any industrial, commercial or agricultural enterprise conducted within the boundaries of the unincorporated residential subdivision area.

CHAPTER 623

An act to amend Section 4000 of the Government Code, relating to public works.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 4000 of the Government Code is amended to read:

4000. This chapter does not apply to maintenance work, work occasioned by emergency, and work costing less than fifteen thousand dollars ($15,000).

CHAPTER 624

An act to amend Section 11005.3 of the Government Code, relating to public leases.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 11005.3 of the Government Code is amended to read:

11005.3. Any state department, board, or commission may lease any real property for the use of such state agency for storage, warehouse, or office purposes provided the lease term shall not exceed two years and the total rental does not exceed three thousand dollars ($3,000).

Any such lease is subject to the approval of the Department of General Services.

CHAPTER 625

An act to add Section 653t to the Penal Code, relating to communications.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980.]

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

SECTION 1. Section 653t is added to the Penal Code, to read:

653t. (a) A person commits a public offense if the person knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a citizen's band radio channel, the purpose of which communication is to inform or inquire about an emergency.

(b) In this section, "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person transmitting the communication to be in imminent danger of serious bodily injury, in which property is or is reasonably believed by the person transmitting the communication to be in imminent danger of extensive damage or destruction, or in which that injury or destruction has occurred and the person transmitting is attempting to summon assistance.

(c) A violation of this section is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in a county jail not to exceed six months, or both, unless, as a result of the commission of the offense, serious bodily injury or property loss in excess of ten thousand dollars ($10,000) occurs, in which event the offense is a felony.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 626

An act to amend Sections 727 and 731 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 727 of the Welfare and Institutions Code is amended to read:

727. (1) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court.

The court may order the care, custody, control and conduct of the minor to be under the supervision of the probation officer or may commit the minor to the care, custody and control of:

(a) Some reputable person of good moral character who consents to such commitment.

(b) Some association, society, or corporation embracing within its objects the purpose of caring for such minors, with the consent of the association, society, or corporation.

(c) The probation officer, to be boarded out or placed in some suitable family home or suitable private institution, subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code; provided, however, that pending action by the State Department of Social Services, the placement of a minor in a home certified as meeting minimum standards for boardinghomes by the probation officer shall be legal for all purposes.

(d) Any other public agency organized to provide care for needy or neglected children.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with the minor in a counseling program to be provided by an appropriate agency designated by the court.

(2) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivision (1).

SEC. 2. Section 731 of the Welfare and Institutions Code is amended to read:

731. When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730 and, in addition, may order the ward to make restitution, to pay a fine up to the amount of two hundred fifty dollars ($250) for deposit in the county treasury if the court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated

work programs or the court may commit the ward to a sheltered-care facility or may order that the ward and his or her family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of such minor or may commit the minor to the Department of the Youth Authority.

A minor committed to the Department of the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. Nothing in this section limits the power of the Youthful Offender Parole Board to retain the minor on parole status for the period permitted by Section 1769.

CHAPTER 627

An act to amend Sections 4550 and 4555 of the Civil Code, relating to summary dissolution of marriage.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 4550 of the Civil Code is amended to read:

4550. A marriage may be dissolved by the summary dissolution procedure specified in this chapter when all of the following conditions exist at the time the proceeding is commenced:

(a) Either party has met the jurisdictional requirements of Sections 4530 and 4531 with regard to dissolution of marriage.

(b) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.

(c) There are no children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, and the wife, to her knowledge, is not pregnant.

(d) The marriage is not more than five years in duration at the time the petition is filed.

(e) Neither party has any interest in real property wheresoever situated.

(f) There are no unpaid obligations in excess of three thousand dollars ($3,000) incurred by either or both of the parties after the date of their marriage, excluding the amount of any unpaid obligation with respect to an automobile.

(g) The total fair market value of community property assets, excluding all encumbrances and automobiles, is less than ten thousand dollars ($10,000) and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of ten

thousand dollars ($10,000).

(h) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have duly executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(i) The parties waive any rights to spousal support.

(j) The parties, upon entry of final judgment of dissolution of marriage, irrevocably waive their respective rights to appeal, their rights to request findings of fact and conclusions of law, and their rights to move for a new trial.

(k) The parties have read and understand the summary dissolution brochure provided for in Section 4556.

(*l*) The parties desire that the court dissolve the marriage.

Commencing January 1, 1983, and on January 1 of each odd-numbered year thereafter, the amounts in subdivisions (f) and (g) shall be adjusted to reflect any change in the value of the dollar. The adjustments shall be made by multiplying the base amounts by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars. The Judicial Council shall compute and publish such amounts.

SEC. 2. Section 4555 of the Civil Code is amended to read:

4555. (a) A final judgment made pursuant to Section 4553 shall not prejudice nor bar the rights of either of the parties to institute an action to set aside such final judgment for fraud, duress, accident, mistake, or other grounds recognized at law or in equity or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(b) The court shall set aside a final judgment as to all matters except the status of the marriage upon proof that the parties did not meet the requirements of subdivision (a) of Section 4550 at the time the petition was filed.

CHAPTER 628

An act to amend Sections 1343, 1345, and 1399.5 of, and to repeal Section 1396 of, the Health and Safety Code, and to amend Section 14251 of the Welfare and Institutions Code, relating to health.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from

the provisions of this chapter any class or persons or plan contracts if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.

(b) The commissioner, upon request of the State Director of Health Services, may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health Services pursuant to Article 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code. Such exemption may be subject to such conditions as the commissioner deem appropriate.

(c) The provisions of this chapter shall not apply to:

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through such entity-owned or contracting health facilities and providers, in which case the provisions of this chapter shall apply to the insurer's plan and to the insurer.

(2) A plan directly operated by a bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

SEC. 2. Section 1345 of the Health and Safety Code is amended to read:

1345. As used in this chapter:

(a) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of plan contracts.

(b) "Basic health care services" means all of the following:

(1) Physician services, including consultation and referral.

(2) Hospital inpatient services and ambulatory care services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Home health services.

(5) Preventive health services.

(6) Emergency health care services, including ambulance services and out-of-area coverage.

(c) "Enrollee" means a person who is enrolled in a plan and who is a recipient of services from the plan.

(d) "Evidence of coverage" means any certificate, agreement, contract, brochure, or letter of entitlement issued to a subscriber or enrollee setting forth the coverage to which the subscriber or enrollee is entitled.

(e) "Group contract" means a contract which by its terms limits the eligibility of subscribers and enrollees to a specified group.

(f) "Health care service plan" means any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees.

(g) "License" means, and "licensed" refers to, a license as a plan pursuant to Section 1353 and, until September 30, 1978, unless extended by the commissioner, a transitional license as a plan pursuant to Section 1350, unless the context otherwise provides.

(h) "Provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

(i) "Person" means any person, individual, firm, association, organization, partnership, business trust, foundation, labor organization, corporation, public agency, or political subdivision of the state.

(j) "Service area" means a geographical area designated by the plan within which a plan shall provide health care services.

(k) "Solicitation" means any presentation or advertising conducted by, or on behalf of, a plan, where information regarding the plan, or services offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the plan.

(*l*) "Solicitor" means any person who engages in the acts defined in subdivision (k) of this section.

(m) "Solicitor firm" means any person, other than a plan, who through one or more solicitors engages in the acts defined in subdivision (k) of this section.

(n) "Specialized health care service plan contract" means a contract for health care services in a single specialized area of health care, including dental care, for subscribers or enrollees, or which pays for or which reimburses any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees.

(o) "Subscriber" means the person who is responsible for payment to a plan or whose employment or other status, except for family dependency, is the basis for eligibility for membership in the plan.

(p) Unless the context indicates otherwise, "plan" refers to health care service plans and specialized health care service plans.

(q) "Plan contract" means a contract between a plan and its subscribers or enrollees or a person contracting on their behalf pursuant to which health care services, including basic health care services, are furnished; and unless the context otherwise indicates it includes specialized health care service plan contracts; and unless the context otherwise indicates it includes group contracts.

(r) "Transitional license" means a license required by Section 1350 and issued by the commissioner on October 1, 1977, to a plan

which was registered on June 30, 1976, under the Knox-Mills Health Plan Act and which timely filed an application for licensing as a plan under this chapter. No findings are made by the commissioner as a condition precedent to the issuance of a transitional license. Such license expires on September 30, 1978, unless such expiration date is extended by the commissioner.

(s) All references in this chapter to financial statements, assets, liabilities, and other accounting items mean such financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters which they purport to present, subject to any specific requirement imposed by this chapter or by the commissioner.

SEC. 3. Section 1396 of the Health and Safety Code is repealed.

SEC. 4. Section 1399.5 of the Health and Safety Code is amended to read:

1399.5. It is the intent of the Legislature that the provisions of this chapter shall be applicable to any private or public entity or political subdivision which, in return for a prepaid or periodic charge paid by or on behalf of a subscriber or enrollee, provides, administers or otherwise arranges for the provision of health care services, as defined in this chapter, unless such entity is exempted from the provisions of this chapter by, or pursuant to, Section 1343.

SEC. 5. Section 14251 of the Welfare and Institutions Code is amended to read:

14251. "Prepaid health plan" is any health care service plan which meets all of the following criteria:

(a) Licensed as a health care service plan by the Commissioner of Corporations pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340), Division 2, Health and Safety Code), other than a plan organized and operating pursuant to Section 10810 of the Corporations Code which substantially indemnifies subscribers or enrollees for the cost of provided services, or has an application for licensure pending and was registered under the Knox-Mills Health Plan Act prior to its repeal (Chapter 941, Statutes of 1975).

(b) Meets the requirements for participation in the Medicaid Program (Title XIX of the Social Security Act) on an at risk basis.

(c) Agrees with the State Department of Health Services to furnish directly or indirectly health services to Medi-Cal beneficiaries on a predetermined periodic rate basis.

"Prepaid health plan" includes any organization which is licensed as a plan pursuant to the Knox-Keene Health Care Service Plan Act of 1975 and is subject to regulation by the Department of Corporations pursuant to that act, and which contracts with the State Department of Health Services solely as a fiscal intermediary at risk . Except for the requirement of licensure pursuant to the Knox-Keene Act, the Director of Health Services may waive any provision of this chapter which the director determines are

inappropriate for a fiscal intermediary at risk. Any such exemption or waiver shall be set forth in the fiscal intermediary at risk contract with the State Department of Health Services.

"Fiscal intermediary at risk" means any entity which entered into a contract with the State Department of Health Services on a pilot basis pursuant to subdivision (f) of Section 14000, as in effect June 1, 1973, in accordance with which the entity received capitated payments from the state and reimbursed providers of health care services on a fee-for-service or other basis for at least the basic scope of health care services, as defined in Section 14256, provided to all beneficiaries covered by the contract residing within a specified geographic region of the state. The fiscal intermediary at risk shall be at risk for the cost of administration and utilization of services or the cost of services, or both, for at least the basic scope of health care services, as defined in Section 14256, provided to all beneficiaries covered by the contract residing within a specified geographic region of the state. The fiscal intermediary at risk may share the risk with providers or reinsuring agencies or both. Eligibility of beneficiaries shall be determined by the State Department of Health Services and capitation payments shall be based on the number of beneficiaries so determined.

SEC. 6. This act is declaratory of the legislative intent existing upon the enactment of the Knox-Keene Health Care Service Plan Act of 1975 and now that there shall be embraced within the jurisdiction of such act and its regulatory provisions all health care service plans as defined in Sections 1345 and 1399.5 of the Health and Safety Code, as contained in such act, unless exempted pursuant to the provisions of Section 1343 thereof. Nothing contained herein shall be construed as a limitation upon the authority of the Commissioner of Corporations under subdivision (a) of Section 1344 of the Health and Safety Code as contained in such act.

CHAPTER 629

An act to amend Section 286 of, to add Sections 543 and 544 to, and to repeal and add Section 11515 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1980 Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 286 of the Vehicle Code is amended to read:

286. The term "dealer" does not include:

(a) Insurance companies, banks, finance companies, public officials, or any other person coming into possession of vehicles in the regular course of business, who shall sell such vehicles under a

contractual right or obligation, or in performance of an official duty, or in authority of any court of law; provided, such sale is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction.

(b) Persons who sell or distribute vehicles of a type subject to registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by such manufacturers or distributors; provided, however, that if any such persons also sell vehicles at retail, they shall be deemed to be vehicle dealers and are subject to this code.

(c) Persons regularly employed as salesmen by vehicle dealers licensed under this code while acting within the scope of such employment.

(d) Persons exclusively engaged in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States; provided, no federal excise tax is legally payable on any of such transactions, or such tax is legally refundable on such transactions. Persons not exclusively engaged in the bona fide business of exporting vehicles but who are engaged in the business of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of such vehicles produces less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, disposing of vehicles acquired for their own use, or for use in their business when the same shall have been so acquired and used in good faith, and not for the purpose of avoiding the provisions of this code.

(f) Persons who are engaged in the purchase, sale or exchange of vehicles, other than motorcycles subject to identification under this code, which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories on behalf of the owners thereof by means of public auctions at the location of such owners' place of business, or as otherwise approved by the department, provided intermediate physical possession or control of, or an ownership interest in such inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer exclusively for carrying racing vehicles. For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a "lessor" as defined in Section 372.

(j) Any person who is a "renter" as defined in Section 508.

(k) A "salvage pool" as defined in Section 543.

SEC. 2. Section 543 is added to the Vehicle Code, to read:

543. "Salvage pool" means a person engaged exclusively in the business of disposing of total loss salvage vehicles or recovered stolen vehicles, or both, for, or on behalf of, insurance companies or authorized adjusters. A salvage pool shall maintain an accurate record of every vehicle acquired and every vehicle disposed of.

SEC. 3. Section 544 is added to the Vehicle Code, to read:

544. "Total loss salvage vehicle" means a vehicle of a type subject to registration which has been wrecked, destroyed, or damaged, to such an extent that the owner, or the insurance company which insured the vehicle, considers it uneconomical to repair the vehicle and because of this, the vehicle is not repaired by or for the person who owned the vehicle at the time of the event resulting in damage.

SEC. 4. Section 11515 of the Vehicle Code is repealed.

SEC. 5. Section 11515 is added to the Vehicle Code, to read:

11515. (a) Whenever an insurance company makes a total loss settlement on a total loss salvage vehicle, the insurance company shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, may issue a salvage certificate for the vehicle.

(b) The provisions of subdivision (a) do not apply if the owner retains possession of the total loss salvage vehicle and the fair retail market value of the vehicle was one thousand dollars ($1,000), or less, immediately prior to its becoming a total loss salvage vehicle. In that case, the owner may retain the certificate of ownership or other evidence of ownership, and the insurance company shall notify the department of such retention on a form prescribed by the department.

(c) Whenever the owner of a total loss salvage vehicle which had a fair market retail value of more than one thousand dollars ($1,000) immediately prior to becoming a total loss salvage vehicle retains possession of the vehicle the insurance company shall notify the department of such retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with the provisions of this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, may issue a salvage certificate for the vehicle. Whenever a total loss salvage vehicle is not the subject of an insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the

department, and a three dollar ($3) fee, to the department. The provisions of this subdivision do not apply if the fair retail market value of the vehicle was one thousand dollars ($1,000), or less, immediately prior to its becoming a total loss salvage vehicle.

(e) Upon sale or disposal of a total loss salvage vehicle, the owner or salvage pool, if the vehicle is sold or disposed of through a salvage pool, shall deliver a properly endorsed salvage certificate to the purchaser within 10 days after payment in full for the salvage vehicle and shall also comply with Section 5900. The department shall accept such endorsed salvage certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department.

(f) The provisions of this section do not apply to a vehicle which has been driven or taken without the consent of the owner thereof until the vehicle has been recovered by the owner and only if such vehicle is a total loss salvage vehicle.

SEC. 6. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 630

An act to amend and repeal Section 20820.5 of, and to add and repeal Section 13470.5 of, the Business and Professions Code, relating to motor vehicle fuel.

[Approved by Governor July 17, 1980. Filed with Secretary of State July 18, 1980]

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

SECTION 1. Section 13470.5 is added to the Business and Professions Code, to read:

13470.5. Any person selling, offering for sale, or advertising for sale, at retail to the general public, any gasoline or other motor vehicle fuel from any place of business in this state by use of or through or from any dispensing apparatus and displaying any sign showing the actual total price per liter, shall, in addition, display in a conspicuous fashion in full view of the retail purchaser and in accordance with provisions of this chapter, a gallon-to-liter conversion table showing quantity and price equivalents.

This section shall remain in effect until January 1, 1985, and on such date is repealed.

SEC. 2. Section 20820.5 of the Business and Professions Code is amended to read:

20820.5. Any person selling, offering for sale, or advertising for sale, at retail to the general public, any gasoline or other motor vehicle fuel from any place of business in this state by use of or through or from any dispensing apparatus and displaying any sign showing the actual total price per liter, shall, in addition, display in a conspicuous fashion in full view of the retail purchaser and in accordance with provisions of this chapter, a gallon-to-liter conversion table showing quantity and price equivalents.

This section shall remain in effect until January 1, 1985, and on such date is repealed.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 2779 are both chaptered and become effective January 1, 1981, that Section 1 of this act shall become operative, in which case Section 2 of this act shall not become operative.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 631

An act to add Section 30170.6 to the Public Resources Code, relating to the California coastal zone.

[Became law without Governor's signature Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 30170.6 is added to the Public Resources Code, to read:

30170.6. Notwithstanding Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, any map dated September 12, 1979, and filed on September 14, 1979, with the office of the Secretary of State, or any provision of Section 30170, the inland boundary of the coastal zone in a portion of San Diego County, of approximately 95 acres in Penasquitos Canyon, is hereby amended as indicated by revised map number 33, dated March 21, 1980, and filed on March 21, 1980, with

the office of the Secretary of State; provided, that the City of San Diego first submits and the commission approves a drainage plan for the area providing for drainage in connection with the extension of Mira Mesa Boulevard to Interstate Highway 805 sufficient to assure that no detrimental increase in runoff of water into Carroll Canyon occurs as a result of construction of Mira Mesa Boulevard.

CHAPTER 632

An act to amend Section 11460 of, to add Sections 11108, 11109, 11110, 11456, 11457, 11458, and 11915.2 to, to add Article 9.4 (commencing with Section 11255) to Chapter 2 of Part 3 of Division 6 of, the Water Code, relating to water.

[Approved by Governor July 18, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 11108 is added to the Water Code, to read:

11108. "Delta" means the Sacramento-San Joaquin Delta as described in Section 12220.

SEC. 2. Section 11109 is added to the Water Code, to read:

11109. "Suisun Marsh" means the area defined in Section 29101 of the Public Resources Code.

SEC. 3. Section 11110 is added to the Water Code, to read:

11110. "Historical level" means the average annual abundance from 1922 through 1967 of the adult populations of fish and wildlife estimated to have lived in or been dependent on any area, as determined by the Department of Fish and Game.

SEC. 4. Article 9.4 (commencing with Section 11255) is added to Chapter 2 of Part 3 of Division 6 of the Water Code, to read:

Article 9.4. Additional Facilities and Programs

11255. The project includes the units authorized in this section, subject to the conditions specified in Sections 11256 and 11257, and in compliance with the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code) and which may be constructed, operated, and financed as joint-use facilities with the United States:

(a) A peripheral canal unit, around the eastern and southern rim of the delta. This unit shall be designed, constructed, and operated to meet the provisions of this part in the most effective manner, and shall consist of canals, pumping plants, intake and outlet structures, siphons and fish screens. The department shall design and construct the unit so as to optimize its usefulness for the protection of the resources of the delta and the augmentation of water supplies. The

department may provide for joint use or delivery of water from the unit with local agencies or with the United States upon the execution of agreements with local agencies or with the United States concerning operation, financing, and sharing of benefits of the unit. This unit shall be constructed in three stages, with the work on the first and second stages proceeding concurrently. Stage one shall consist of construction of the facility from the town of Hood to Shima Tract on the northwest outskirt of Stockton. Stage two shall consist of preconsolidation from the San Joaquin River to Clifton Court Forebay of the California Aqueduct. Stage three shall consist of the completion of the facilities from Shima Tract to Clifton Court Forebay. When stage one is completed, it shall be operated for a period of two years to establish adequate fish screen and operational criteria. Thereafter, stage three shall be constructed when the Director of Water Resources and the Director of Fish and Game both determine from the results of the trial period that the fish screen and operational criteria will adequately protect fish populations. The state water facilities referred to in paragraph (3) of subdivision (d) of Section 12934 are defined to include this unit.

(b) Relocation of the intake to the Contra Costa Canal to divert water from the state water facilities, subject to the terms of a contract between the department and beneficiaries.

(c) The Los Vaqueros unit, to be located in eastern Contra Costa County about eight miles west of the Clifton Court Forebay. Other offstream storage reservoirs may be located south or west of the delta, as determined by the Director of Water Resources, to be served by existing project facilities.

(d) South delta water quality improvement facilities, consisting of pumping plants, discharge canals, flow control structures, and channelization of sloughs to provide improved circulation, distribution, and quality of water in the southeastern delta and to meet the needs of the south delta area, to be completed no later than the facility described in subdivision (a) of this section. Such facilities may include a turnout from the California Aqueduct to the Westley Wasteway of the federal Delta-Mendota Canal or other facilities to deliver water to the San Joaquin River or in lieu thereof the director may agree with the Bureau of Reclamation to exchange equivalent water between the Delta-Mendota Canal and the California Aqueduct. The portion of the facilities not integrally connected with the facility described in subdivision (a) of this section, or its operation, shall be constructed only if a contract between an appropriate agency representing the beneficiaries and the department is executed.

(e) As mitigation for the past, present, and future adverse impacts of reduced delta outflows on the wildlife resources of the Suisun Marsh, the department shall construct, maintain, and operate or contract with the Suisun Resources Conservation District for the construction, maintenance, or operation of the Suisun Marsh overall protection facilities in accordance with a plan to be developed by the

department in cooperation with the Suisun Resources Conservation District and the Department of Fish and Game. The facilities shall be completed no later than stage one of the facilities described in subdivision (a) of this section.

(f) Facilities for utilizing ground water storage space determined by the director to be feasible for the purpose of providing yield for the State Water Resources Development System based upon estimates by the department that ground water storage can yield 400,000 acre-feet annually, in conjunction with existing and future surface water supplies, by the recharge and extraction of ground water and including the capitalized cost of delivering water for filling or refilling ground water storage space, in one or more of the following locations within the service area of the State Water Resources Development System:

(1) The south San Francisco Bay area in the Counties of Santa Clara and Alameda, served by the South Bay Aqueduct.

(2) San Joaquin Valley, served by the California Aqueduct.

(3) Southern California, served by the California Aqueduct, including enlargement of the Devil Canyon Power Plant and the Mojave Division (East Branch) from the proposed Cottonwood Power Plant to Silverwood Lake.

None of the facilities described in this subdivision shall be constructed or operated within the boundaries of an agency that has contracted for water from the State Water Resources Development System without a contract with such agency.

(g) Glenn Reservoir-River Diversion Unit on the west side of the Sacramento Valley in the vicinity of Stony Creek and Thomes Creek watersheds. This unit may be constructed in stages.

(h) If the Glenn Reservoir-River Diversion Unit authorized in subdivision (g) is not feasible, as determined by the Director of Water Resources, the Colusa Reservoir-River Diversion Unit on the west side of the Sacramento Valley in the western portion of the Counties of Glenn and Colusa. This unit may be constructed in stages. The Sites Reservoir portion of the unit may be developed at any time hereafter by the federal government as a facility of the federal Central Valley Project to serve the Tehama-Colusa Canal and any extension thereof into Yolo and Solano Counties.

(i) Waste water reclamation programs to provide yield for the State Water Resources Development System, provided such facilities are economically competitive with alternative new water supply sources. None of the facilities described in this subdivision shall be constructed or operated within the boundaries of any agency that has contracted for water from the State Water Resources Development System without a contract with such agency.

(j) Water conservation programs within the boundaries of agencies that have contracted for water from the State Water Resources Development System, provided, that the implementation of such programs is contingent upon contracts between such agencies and the Department of Water Resources. Based on

estimates of the department, waste water reclamation and water conservation in urban areas served by the State Water Resources Development System are projected to total 700,000 acre-feet annually by year 2000.

(k) The Mid-Valley Canal Unit, which shall be constructed primarily for the purpose of alleviating the ground water overdraft and providing water supplies for the state and federal water fowl management areas in the canal service area; provided, that the water delivered through its facilities shall be water developed by facilities other than those of the project, and provided further, that such water shall be transported through the facilities described in subdivision (a) of this section and, provided further, that the full cost of the unit incurred by the state and allocated to agricultural, municipal, and industrial contractors shall be repaid by them.

The Secretary of the Resources Agency is authorized to indicate in writing the state's intent to agree to administer any federal multiple-purpose water project land and water areas of the Mid-Valley Canal Unit for recreation and fish and wildlife enhancement as provided in Public Law 89-72 if constructed by the United States.

(*l*) Western Delta Overland Water Facilities, to supply water to agricultural areas on Sherman Island, Jersey Island, Hotchkiss Tract, and adjacent areas.

(m) (1) Facilities to provide for the transportation of water to termini to serve the Counties of San Joaquin, San Francisco, and San Mateo.

(2) Facilities to provide for the transportation of a supplemental water supply to areas in Alameda and Contra Costa Counties not served through the Contra Costa Canal or the South Bay Aqueduct, provided that the water to be delivered shall be water developed by facilities of the federal Central Valley Project.

11256. (a) Construction of the facilities described in subdivision (a) or (k) of Section 11255 shall commence only if the department enters into a permanent agreement with the Department of Fish and Game for the protection and enhancement of fish and wildlife which shall provide for the following:

(1) The restoration and maintenance of adult populations of fish and wildlife at historical levels in the delta and the Suisun Marsh and the San Francisco Bay system westerly of the delta. Maintenance at historical levels shall consider natural fluctuations in annual water supply and populations of fish and wildlife. The agreement shall include those limitations on exports and diversions to storage which are necessary to restoring and maintaining historical levels of fish and wildlife.

To the extent practicable, fresh water needed to restore and maintain fish and wildlife in the San Franciso Bay System westerly of the delta shall be provided from unregulated flows, and

(2) The realization of the potential of the project for increasing these resources above the levels in paragraph (1) consistent with the

contracts for water delivery and with other purposes of the projects.

(b) The department shall immediately proceed with activities prerequisite to the construction of the facilities provided for in subdivision (a) of Section 11255 and shall complete the design and commence construction as soon as possible.

11257. The authorizations contained in subdivisions (c), (f), (g), (h), and (k) of Section 11255 are conditional upon the completion of engineering, economic, environmental, and financial feasibility reports found favorable by the Director of Water Resources.

Each financial feasibility report shall contain:

(a) An initial allocation of project costs to project purposes.

(b) The proposed method of financing.

(c) An estimate of the method of repayment.

(d) A designation of the water and power contractors that are proposed to repay the allocated reimbursable water development costs, including interest if any, on upstream storage, conveyance, operations, maintenance, and replacement.

(e) An estimate of the impact upon retail water prices in the various service areas of the project.

11258. The environmental impact report on the peripheral canal shall include a discussion of the sources of the mineral, nutrient, and biological components of the Sacramento River and shall evaluate the possible impacts to such components resulting from the operation of the proposed peripheral canal.

If the department determines that there will be significant adverse mineral, nutrient, or biological effects caused by the operation of the peripheral canal, the department shall:

(a) Evaluate mitigation measures in the environmental impact report.

(b) Propose cost allocation principles for the mitigation.

(c) Prepare trial cost allocation.

To the extent practicable, the department shall mitigate adverse impacts upon mineral, nutrient, or biological effects caused by the operation of the canal.

SEC. 5. Section 11456 is added to the Water Code, to read:

11456. The department shall enter into permanent and enforceable contracts, with the delta agencies specified in this section, for the purpose of recognizing the right of users to make use of the waters of the delta and establishing criteria for the minimum quality of water which shall prevail within the delta before water may be exported therefrom, such quality to be adequate to permit the preservation of present delta agricultural, domestic, and environmental uses, all as provided in Part 4.5 (commencing with Section 12200) of this division. Such contracts shall provide for reasonable payment to be made for any benefits which may be received through the water supply or quality provided in such contracts in excess of that which would have been available in absence of the operations by the State Water Resources Development System and by the federal Central Valley Project, and

offset by any detriments caused thereby. If contracts have not been executed by the effective date of this section, differences between the state and such agencies shall be resolved by arbitration upon the written request of either party to the proposed contract identifying the issues upon which arbitration shall be held, which arbitration shall be conducted in accordance with Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. The agencies with which such contracts shall be entered into are the following:

(a) North Delta Water Agency.
(b) Central Delta Water Agency.
(c) South Delta Water Agency.
(d) East Contra Costa Irrigation District.
(e) Byron-Bethany Irrigation District.
(f) Contra Costa County Water Agency.
(g) Contra Costa County Water District.
(h) Suisun Resource Conservation District.

When binding determinations have been made involving two-thirds of the total acreage within the delta and Suisun Marsh located within the foregoing agencies, the department or the remaining agencies may withdraw from the arbitration proceedings. The provisions of this section shall not supersede any requirement for elections to approve such contracts, reached by negotiation or arbitration, as may be required by the act authorizing creation of the agency.

SEC. 6. Section 11457 is added to the Water Code, to read:

11457. The costs of providing any benefits received by agricultural, municipal, and industrial water users in the delta as a result of project operations, in excess of any detriments caused thereby, shall, to the extent properly allocable be repayable to the department by the beneficiaries. The costs of providing such benefits shall not be reimbursable by any State Water Resources Development System water service contractor who does not receive those benefits.

SEC. 7. Section 11458 is added to the Water Code, to read:

11458. (a) Except as provided for in subdivision (b) of this section, the department shall not transport water for the federal Central Valley Project through project facilities, including the peripheral canal, until the following events occur:

(1) The Congress of the United States enacts legislation or the Secretary of the Interior enters into a permanent contract with the department which requires operation of the federal Central Valley Project:

(A) In full coordination with the State Water Resources Development System and in compliance with water quality standards adopted pursuant to Section 13170 and as set forth as conditions in permits and licenses as provided for in Part 2 (commencing with Section 1200) of Division 2; provided, that actions of the State Water Resources Control Board in establishing water quality standards and conditions in permits and licenses shall be a

combined action meeting all the applicable requirements of Part 2 (commencing with Section 1200) of Division 2.

(B) In conformity with a permanent agreement between the United States and the state for the protection and enhancement of fish and wildlife which shall provide for the following:

(i) The restoration and maintenance of adult populations of fish and wildlife at historical levels in the delta and the Suisun Marsh and the San Francisco Bay System westerly of the delta. Maintenance at historical levels shall consider natural fluctuations in annual water supply and populations of fish and wildlife. The agreement shall include those limitations on exports and diversions to storage which are necessary to assist in restoring and maintaining historical levels of fish and wildlife.

To the extent practicable, fresh water needed to restore and maintain fish and wildlife in the San Francisco Bay System westerly of the delta shall be provided from unregulated flows: and

(ii) The realization of the potential of the project for increasing these resources above the levels in paragraph (i), consistent with the contracts for water delivery and with other purposes of the projects.

(2) The federal government agrees to the transportation of water of the federal Central Valley Project through the facilities described in subdivision (a) of Section 11255.

(b) The department may transport water for the federal Central Valley Project through project facilities. (1) under contracts between the department and the United States existing on the effective date of this section, (2) and in accordance with the requirements of any decision of the State Water Resources Control Board, and (3) for the San Felipe Unit of the federal Central Valley Project in implementation of the principles of the agreement between the department and the Santa Clara Valley Water District as follows: if operation of the federal Central Valley Project to meet delta water quality standards requires proportionate reduction in deliveries of water to the San Felipe Unit, such reductions will be made.

SEC. 8. Section 11460 of the Water Code is amended to read:

11460. (a) In the construction and operation by the department of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein.

(b) The project shall be operated in compliance with water quality standards set forth as conditions in permits or licenses as provided for in Part 2 (commencing with Section 1200) of Division 2 and in water quality control plans as provided for in Section 13170 or as established by contract, including rectifying failure of the United States to operate the federal Central Valley Project in

accordance with such standards; provided that actions of the State Water Resources Control Board in establishing water quality standards and conditions in permits and licenses shall be a combined action meeting all the applicable requirements of Part 2 (commencing with Section 1200) of Division 2.

(c) The department, the Attorney General, and other state agencies shall take all necessary actions, including initiating or participating in judicial, administrative, and legislative proceedings, to assure that the federal Central Valley Project is operated in compliance with standards established by the State Water Resources Control Board as specified in subparagraph (A) of paragraph (1) of subdivision (a) of Section 11458.

SEC. 9. Section 11915.2 is added to the Water Code, to read:

11915.2. The department shall make an allocation of the costs to the project which provide water for water quality, fish and wildlife, and recreation in the delta, Suisun Marsh, or San Francisco Bay, to compensate for historic upstream depletions and diversions which have reduced the amount of water naturally available in the delta, Suisun Marsh, and San Francisco Bay. Public agencies that have contracted for water supplies from the project shall not be responsible for such allocated costs.

SEC. 10. (a) The Department of Fish and Game is authorized to administer a comprehensive study to determine the interrelationship between delta outflow, including flushing flows, and fish and wildlife resources in the San Francisco Bay System westerly of the delta and waste discharges into the San Francisco Bay System. The State Water Resources Control Board shall be responsible for the portions of the study relating to waste discharges. Such study and the work plan for it shall be reviewed by a committee composed of representatives of the San Francisco Bay Conservation and Development Commission, the State Water Resources Control Board, and the Department of Water Resources. The Department of Fish and Game shall report progress on such study annually to the Legislature. Such report shall include recommendations for coordination with any other ongoing related study and for adjustment in funding and the report shall include independent statements of review from each agency on the review committee.

(b) The primary purpose of the study is to provide data to aid the State Water Resources Control Board in its consideration of the need to set standards to protect San Francisco Bay to assure that planning for future projects will not appreciably reduce unregulated delta outflows before the State Water Resources Control Board determines the need for water quality standards to protect the San Francisco Bay System westerly of the delta.

(c) The study need not be completed before the final environmental impact report on the peripheral canal authorized by subdivision (a) of Section 11255 of the Water Code is adopted.

(d) Nothing in this section shall affect the obligation of the Department of Water Resources under the California Environmental Quality Act (Division 13 (commencing with Section

21000) of the Public Resources Code).

SEC. 11. The Department of Water Resources shall study the possible interconnection between the State Water Resources Development System and water supply systems serving the Counties of Alameda, Contra Costa, San Francisco, San Joaquin, and San Mateo.

SEC. 12. The Department of Water Resources may participate in an investigation of the need to enlarge Shasta Dam and Reservoir or other existing federal reservoirs for joint use of the State Water Resources Development System and the federal Central Valley Project, if a contract therefor is executed between the Secretary of the Interior and the Department of Water Resources. The study shall be subject to the provisions of Section 11257 of the Water Code.

CHAPTER 633

An act to add Part 11 (commencing with Section 2670) to Division 2 of the Labor Code, relating to garment manufacturing.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Part 11 (commencing with Section 2670) is added to Division 2 of the Labor Code, to read:

PART 11. GARMENT MANUFACTURING

CHAPTER 1. GENERAL PROVISIONS

2670. It is the intent of the Legislature, in enacting this part, to establish a system of registration, penalties, confiscation, bonding requirements, and misdemeanors for the imposition of prompt and effective criminal and civil sanctions against violations of, and especially patterns and practices of violations of, any of the laws as set forth herein and regulations of this state applicable to the employment of workers in the garment industry. The civil penalties provided for in this part are in addition to any other penalty provided by law. This part shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health, safety, and peace of the people of the State of California.

2671. As used in this part:

(a) "Person" means any individual, partnership, corporation, or association, and includes, but is not limited to, employers, manufacturers, jobbers, wholesalers, contractors, and subcontractors.

"Person" does not include any person who manufactures garments by himself or herself, without the assistance of a contractor,

employee, or others; any person who engages solely in that part of the business engaged solely in cleaning, alteration, or tailoring; any person who engages in the activities herein regulated as an employee with wages as his or her sole compensation; or any person as provided by regulation.

(b) "Garment manufacturing" means sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel, designed or intended to be worn by any individual, for sale or resale by any person or any persons contracting to have the above operations performed.

(c) "Commissioner" means the Labor Commissioner.

2672. The commissioner shall promulgate all regulations and rules necessary to carry out the provisions of this part. The commissioner, upon good cause, may impose, in his or her discretion, the terms of penalties, the revocation of registrations, and the confiscation or disposal of goods in accordance with such rules and regulations.

2673. Every employer engaged in the business of garment manufacturing shall keep accurate records for three years which show all of the following:

(a) The names and addresses of all garment workers directly employed by such person.

(b) The hours worked daily by employees, including the times the employees begin and end each work period.

(c) The daily production sheets, including piece rates.

(d) The wage and wage rates paid each payroll period.

(e) The contract worksheets indicating the price per unit agreed to between the contractor and manufacturer.

(f) The ages of all minor employees.

(g) Any other conditions of employment.

2674. The Division of Labor Standards Enforcement shall enforce Section 2673 and Chapter 2 (commencing with Section 2675).

2674.1. The commissioner shall appoint an advisory committee on garment manufacturing to advise him or her of common industry problems and to effect liaison between his or her office and various segments of the industry. The committee shall consist of a cross section of the industry and shall include representatives of unions, employees, contractor associations, jobbers, and manufacturers.

2674.2. In the annual budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution, the Governor shall include a detailed statement of the cost of regulation and estimated revenues pursuant to the provisions of this part. The Legislature intends that the fees established and other revenue received pursuant to this part shall provide sufficient funds to meet all state costs incurred pursuant to this part.

CHAPTER 2. REGISTRATION

2675. (a) For purposes of enforcing this part and Sections 204, 209, 212, 221, 222, 222.5, 223, 226, 227, and 227.5, Chapter 2

(commencing with Section 300) and Article 2 (commencing with Section 400) of Chapter 3 of Part 1 of this division, Sections 1195.5, 1197, 1197.5, and 1198, Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200), every person engaged in the business of garment manufacturing shall register with the commissioner, in writing on a form developed by the commissioner, providing the form of business entity, its current name, address, number of employees, and such other information as the Division of Labor Standards Enforcement may by regulation prescribe. Such registration shall be completed at least once a year, or at such intervals as required by the Division of Labor Standards Enforcement. The commissioner shall issue a certificate of registration upon completion of the registration form and documentation that a current workers' compensation insurance policy is in effect for the employees of the person seeking registration. The commissioner shall fix the initial registration fee which shall not exceed one hundred dollars ($100) and each renewal registration fee which shall not exceed seventy-five dollars ($75).

(b) At the time a certificate of registration is originally issued, the commissioner shall provide related and supplemental information regarding business administration and applicable labor laws. Such related and supplemental information, as much as reasonably possible, shall be provided in the primary language of the garment manufacturer.

(c) Proof of registration shall be by an official Division of Labor Standards Enforcement registration form. Every person, as set forth in Section 2671, shall post the registration form where it may be read by employees during the workday.

2676. Any person engaged in the business of garment manufacturing who is not registered is guilty of a misdemeanor.

2677. Any person engaged in the business of garment manufacturing who contracts with any other person similarly engaged who has not registered with the commissioner shall be deemed an employer, and shall be jointly liable with such other person for any violation of Section 2675 and the sections enumerated therein.

2678. (a) A penalty, as provided in subdivision (c), may be imposed against any person for any of the following:

(1) Failure to comply within 15 days of any judgment due for violation of any labor laws applicable to garment industry workers.

(2) Failure to comply with the registration requirements of this part.

(3) Failure to comply with Section 2673 or any section enumerated in Section 2675.

(b) The order imposing the penalty may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Such order shall be in writing and shall describe the nature of the violation, including reference to the statutory provisions, rules, or regulations alleged to have been violated.

(c) The penalties shall be a civil penalty of fifty dollars ($50) for each affected employee for the initial violation and a civil penalty of one hundred dollars ($100) for each affected employee for the second or subsequent violation.

2679. (a) The commissioner, in addition to any civil penalty imposed pursuant to Section 2679, may require that as a condition of continued registration, such employer deposit with him or her within 10 days a bond to ensure payment of wages and benefits in such sum and form as the commissioner may deem sufficient and adequate in the circumstances but not to exceed ten thousand dollars ($10,000). The bond shall be payable to the commissioner and shall provide that the employer shall pay his or her employees in accordance with the provisions of Section 2675. In lieu of the deposit of a bond, the commissioner, in his or her discretion, may accept other evidence of financial security sufficient to guarantee payment of wages to affected employees.

(b) The commissioner, in addition to any civil penalty imposed, shall require a bond as set forth in subdivision (a) upon any second or subsequent violation within any two-year period. The commissioner may revoke the registration of any person for any period ranging from 30 days to one year upon a third or subsequent violation within any two-year period and may confiscate any garment or wearing apparel, assembled or partially assembled, if the violation relates to minimum wages, child labor, or maximum hours of labor. If the commissioner does exercise the authority to confiscate upon such a third or subsequent violation, the commissioner shall notify persons for whom assembly is performed and shall provide for the return of such garment owner's confiscated garments or wearing apparel upon such assumption and satisfaction of liability for the violation.

2680. Any garment or wearing apparel, assembled or partially assembled by or on behalf of any person who has not complied with the registration requirements of this part, may be confiscated by the Division of Labor Standards Enforcement. Such confiscated garments or wearing apparel shall be placed in the custody of the division, which shall be charged with the responsibility of destroying or disposing of them pursuant to regulations adopted under Section 2672, provided that such goods shall not enter the mainstream of commerce and shall not be offered for sale. The division shall, by registered mail, give notice of such removal and the location where the confiscated goods are held in custody to the known manufacturer and contractor.

2681. (a) Any person against whom a penalty is assessed or whose goods are confiscated may petition to the commissioner within five days of receipt of notice of such penalty or confiscation by a verified petition in writing, objecting to the penalty assessment or confiscation of goods and requesting a hearing. This hearing shall relate solely to assessment or confiscation. If no petition is filed within the five-day period, such assessment or confiscation shall become conclusive, and any penalty assessed shall be due and

payable within five days of the effective date of the cease and desist order. If a hearing is held, such hearing shall be held within 10 days of the filing of the petition and a decision shall be rendered within five days after the conclusion of the hearing. After the hearing decision is rendered, penalties assessed shall be payable within 10 days of receipt of notice of payment due by the petitioner, unless the decision is appealed to a court as provided in subdivision (b).

(b) Within 10 days after service of notice of an order, decision or award, following a hearing pursuant to subdivision (a), the parties may seek review by filing a notice of appeal with the municipal or superior court for the county in which the employer is registered, or if not registered, maintains his or her principal place of business, in accordance with the appropriate rules of jurisdiction. In such case, a trial de novo shall be held. A copy of the notice of appeal shall be served upon the commissioner by the appellant. Upon the filing of the notice of appeal, the appellant shall post a bond to ensure payment. The bond shall be in the form prescribed by the commissioner and shall be payable to the commissioner in the amount equal to any penalty ordered paid by the hearing officer.

(c) If no notice of appeal is filed within 10 days of receipt of the notice of order, decision or award, the order, decision or award shall, in the absence of fraud, be deemed the final order.

(d) Within 10 days of the order becoming final pursuant to subdivision (c), the commissioner shall file a certified copy of the final order with the clerk of the municipal or superior court, in accordance with the appropriate rules of jurisdiction, of the appropriate county unless a settlement has been reached by the parties and approved by the commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered shall have the same force and effect as, and shall be enforced in the same manner as any other judgment of the court in which it is entered. Enforcement of such judgment shall receive court priority.

2682. Moneys recovered under this chapter shall be applied first to payment of wages due affected employees. If insufficient funds are withheld or recovered, the money shall be prorated among all such workers. Any remainder shall be paid to the General Fund of the state.

CHAPTER 3. ARBITRATION

2685. The commissioner shall establish, in accordance with the provisions of this chapter, procedures for mandatory arbitration of pricing and product quality disputes arising out of written contracts between manufacturers and contractors.

2686. Upon the written request of any manufacturer or contractor, the Conciliation Service of the Department of Industrial Relations shall notify the other party to the dispute of the request for arbitration and shall, within seven days of receipt of such request, appoint an arbitration panel to hear and render a decision regarding the dispute. The panel shall be constituted as follows:

(a) A management level representative from a manufacturer in the general geographic area in which the dispute arises, provided that insofar as posssible such manufacturer shall not be a direct competitor of the manufacturer involved in the dispute to be arbitrated. This panel member also shall be selected in accordance with the terms of the written contract.

(b) A representative from the contractors' association whose membership encompasses the general geographic area in which the dispute arises. This panel member also shall be selected in accordance with the terms of the written contract.

(c) A third party to be chosen and agreed upon by the first two from a list of arbitrators provided by the American Arbitration Association. This party shall act as chairperson of the panel.

2687. Within seven days of appointment, the chairperson of the panel shall notify the parties in writing of the date, time, and location of the hearing before the panel. The hearing date shall be scheduled no later than 21 days after the filing of the request for arbitration, provided, however, that each party shall have no less than five days notice prior to the hearing date.

2688. On the date and time specified in the hearing notice, the chairperson shall convene the hearing and shall determine whether each party is represented. If neither party is represented, the arbitration shall be terminated, with costs assigned to the party requesting arbitration, and the parties shall forfeit any further rights under this section relating to the dispute for which arbitration was requested. In the event only one party is in attendance, the arbitration shall proceed and the panel shall make its award based upon the evidence presented. Appearance at the hearing by a party shall be deemed to waive any alleged defect in notice.

2689. To facilitate the conduct of the hearing, the following procedures shall govern:

(a) Upon good cause shown by a party, the chairperson shall be empowered to issue subpoenae duces tecum and ad testificandum.

(b) Each party may be represented by an attorney at the party's own expense.

(c) The formal rules of evidence shall not be applicable, but any relevant evidence shall be admitted if it is evidence upon which responsible persons would rely in the conduct of serious business affairs.

(d) All testimony shall be taken under oath.

(e) No formal written records shall be kept unless one or both parties agree to employ at their own expense a qualified court reporter for that purpose. In such case, a copy of the record shall be provided to the panel and a copy shall be made available to the other party at the standard cost for such additional copies.

(f) Those in attendance at the hearing shall be limited to the panel, the parties and their counsel, a court reporter, interpreters when requested by a party or the panel, and witnesses while testifying.

(g) Upon the request of a panel member, the panel may allow a period, not to exceed three days following the conclusion of the

hearing, during which time a party may submit otherwise admissible evidence not available during the course of the hearing.

2690. Within 15 days after the conclusion of the hearing, the panel shall make a written award, which shall determine all questions submitted for arbitration. All decisions of the panel shall be by majority vote and the award shall be signed by the members concurring therein. The panel immediately shall provide written notice of the award to the parties and to the commissioner.

2691. Within 10 days of receipt of notice of the award, the party or parties who are required to comply with the terms of the award shall so comply and file proof of such compliance with the commissioner or shall file a notice of appeal with the municipal or superior court for the county in which the hearing was held, in accordance with the appropriate rules of jurisdiction. Upon the filing of such an appeal, a trial de novo shall be held, provided, however, that the decision reached by the panel as stated in the award shall be received as evidence by the trial court.

2692. The basic costs of the arbitration proceeding, including interpreters requested by the panel, shall be borne equally by all parties to the proceeding, provided, however, that the panel may as a part of its award impose all such costs on the party requesting arbitration if a majority of the panel determines that the matter brought before it was frivolous. In addition, in the case of a frivolous claim the panel may impose upon the party requesting arbitration the costs of translators, court reporters, and reasonable attorneys fees incurred by the other party.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 3. The provisions of this act shall become operative on July 1, 1981.

CHAPTER 634

An act to amend Sections 657, 1001, 1004, 1024, and 1174 of the Probate Code, and to amend Sections 13311, 13801, 13802, 13803, 13805, 14104, 14128, 14143.5, 14211, 14345, 14347, 14774, 15310, 15421, 15422 and 15423 of, to add Sections 13311.5, 14180, 14181, 14182, and 14902 to, and to repeal Sections 13314, 13551, 13552.5, 13554, 13554.5, 13555, 13556, 13556.5, 13557, 14141, 14142, 14143, 14144, 14342, 14343, 14344, 14346, 14791, 14792, 14793, 14794, 14795, and 14798 of, and to repeal Sections 15104.5, 15301, 15301.5, and 15303.5 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation

therefor, to take effect immediately, tax levy.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 657 of the Probate Code is amended to read:

657. (a) Upon the filing of a petition pursuant to Section 650, the court shall immediately appoint one inheritance tax referee who shall appraise the property described in the petition in the same manner provided in Section 605 and file an inheritance tax report or certification that no tax is due with the clerk of the court. Upon the filing of the inheritance tax report, the court shall enter an order fixing the inheritance tax in the same manner and subject to all other provisions of law relating to the administration of the estate of a decedent which is not subject to the provisions of this article. The filing of an inheritance tax report and the entry of an order fixing the inheritance tax under this article shall not limit the filing of additional reports and the entry of additional orders fixing the inheritance tax as to any other property of the deceased spouse giving rise to additional inheritance tax liability.

(b) The petitioner shall furnish the referee with a copy of the petition and all other necessary information and documentation as may be required by law for the referee to prepare the inheritance tax report or issue the certification that no tax is due with reference to the property described in the petition. Within 60 days after the receipt of the petition and information and documentation by the referee, as may be evidenced by an affidavit which is filed in the proceedings by the petitioner and served by mail on the referee, the referee shall make the appraisal and file the inheritance tax report or the certification that no tax is due with the clerk of the court. If the referee does not comply with the provisions of this subdivision, the court may issue any orders which may be necessary to effect compliance.

SEC. 1.3. Section 1001 of the Probate Code is amended to read:

1001. If, at the hearing, it appears that all of the allegations of the petition are true, that the estate is but little indebted and the legacy, devise or share of the estate or any portion thereof may be distributed without loss to the creditors or injury to the estate or any person interested therein, the court shall make an order requiring the executor or administrator to deliver the share, or shares, of the estate or such portion or portions thereof as the court may direct, to the person or persons entitled thereto, upon receiving from such person or persons a bond or bonds executed and payable to the executor or administrator, in such sum or sums as the court may designate, conditioned on the payment whenever required of the proportion of the debts due from the estate, not exceeding the amount of the legacy or portions of the estate so ordered to be

delivered; or if the time for filing claims has expired and all claims are paid or sufficiently secured the court may so order distribution with or without bond as it may determine.

SEC. 1.4. Section 1004 of the Probate Code is amended to read:

1004. When the time for filing or presenting claims has expired and all uncontested claims have been paid or are sufficiently secured by mortgage, or otherwise, but the estate is not in a condition to be finally closed and distributed, the executor or administrator to whom authority has been granted to administer the estate without court supervision, in accordance with Article 2 (commencing with Section 591) of Chapter 8 of Division 3, may petition the court for authority to distribute a portion of the estate to the person or persons entitled thereto. Such petition need not include an accounting, provided that when the petition seeks authority to distribute to a trustee the petition shall include an accounting unless the trustee consents to the distribution without an accounting. The total amount of the property distributed under this section shall not exceed 50 percent of the net value of the estate. The clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by Section 1200, but the court may order the notice to be given for a shorter period or dispensed with. If the court shall determine that all of the allegations of the petition are true, that the estate is but little indebted, that the property to be distributed does not exceed 50 percent of the net value of the estate, and that the distribution may be made without loss or injury to the estate or any person interested therein, the court shall make an order authorizing the executor or administrator to distribute the property to the person or persons entitled thereto. For purposes of this section "net value of the estate" means the excess of the value of the assets of the estate reflected by all inventories and appraisements on file with the court over the total amount of all creditors' claims filed or presented and liens and encumbrances recorded or known to the executor or administrator not reflected in any creditors' claims filed or presented, excluding death tax liens occasioned by the decedent's death.

SEC. 1.5. Section 1024 of the Probate Code is amended to read:

1024. Before any decree of distribution is made, all personal property taxes due and payable by the estate shall be paid.

SEC. 1.6. Section 1174 of the Probate Code is amended to read:

1174. Such petition, or affidavits in support thereof, may be received in evidence and acted upon by the court with the same force and effect as if the petitioner or affiants were personally present and testified to the fact set forth, and the court may render judgment thereon establishing the fact of the death, which judgment shall be prima facie evidence of the fact of the death. The presumption established by this section is a presumption affecting the burden of producing evidence.

SEC. 2. Section 13311 of the Revenue and Taxation Code is amended to read:

13311. "Market value," in respect to property included in any transfer, means the market value of the property as of the date of the transferor's death, whether or not the transfer was made during the lifetime of the transferor.

SEC. 2.3. Section 13311.5 is added to the Revenue and Taxation Code, to read:

13311.5. (a) Certain qualified real property shall be valued based on use in accordance with this section.

(1) If—

(A) The decedent was (at the time of his or her death) a citizen or resident of the United States, and

(B) The executor elects the application of this section for purposes of the tax imposed by this part, then, for purposes of this part, the value of qualified real property shall be its value for the use under which it qualifies, under subdivision (b), as qualified real property.

(2) The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed five hundred thousand dollars ($500,000).

(b) Qualified real property is as follows:

(1) For purposes of this section, the term "qualified real property" means real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and which, on the date of the decedent's death, was being used for a qualified use, but only if—

(A) Fifty percent or more of the adjusted value of the clear market value of the estate consists of the adjusted value of real or personal property which—

(i) On the date of the decedent's death, was being used for a qualified use, and

(ii) Was acquired from or passed from the decedent to a qualified heir of the decedent.

(B) Twenty-five percent or more of the adjusted value of the clear market value of the estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A) (ii) and (C),

(C) During the eight-year period ending on the date of the decedent's death there have been periods aggregating five years or more during which—

(i) Such real property was owned by the decedent or a member of the decedent's family and used for a qualified use, and

(ii) There was material participation by the decedent or a member of the decedent's family in the operation of the farm or other business, and

(D) Such real property is designated in the agreement referred to in paragraph (2) of subdivision (d).

(2) For purposes of this section, the term "qualified use" means the devotion of the property to any of the following:

(A) Use as a farm for farming purposes, or

(B) Use in a trade or business other than the trade or business of farming.

(3) For purposes of paragraph (1), the term "adjusted value" means—

(A) The value of the estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction for unpaid mortgages on, or any indebtedness in respect of, property where the value of the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the estate, or

(B) In the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property for unpaid mortgages on, or any indebtedness in respect of, property where the value of the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the estate.

(c) Tax treatment of dispositions and failures to use for a qualified use are as follows:

(1) If, within 15 years after the decedent's death and before the death of the qualified heir—

(A) The qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his or her family), or

(B) The qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent,

then there is hereby imposed an additional tax.

(2) Amount of additional tax—

(A) The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—

(i) The adjusted tax difference attributable to such interest, or

(ii) The excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subdivision (a).

(B) For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under subparagraph (C)) as—

(i) The excess of the value of such interest for purposes of this chapter (determined without regard to subdivision (a)) over the value of such interest determined under subdivision (a), bears to

(ii) A similar excess determined for all qualified real property.

(C) For purposes of subparagraph (B), the term "adjusted tax difference with respect to the estate" means the excess of what would have been the tax liability but for subdivision (a) over the tax

liablity. For purposes of this subparagraph, the term "tax liability" means the tax imposed by this part reduced by the credits allowable against such tax.

(D) For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a cessation of use of such a portion—

(i) The value determined under subdivision (a) taken into account under subparagraph (A) (ii) with respect to such portion shall be its pro rata share of such value of such interest, and

(ii) The adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subdivision with respect to all prior transactions involving portions of such interest.

(3) If the date of the disposition or cessation referred to in paragraph (1) occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subdivision shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

(A) The numerator of which is the number of full months after such death in excess of 120, and

(B) The denominator of which is 60.

(4) In the case of an interest acquired from (or passing from) any decedent, if subparagraph (A) or (B) of paragraph (1) applies to any portion of an interest, subparagraph (B) or (A), as the case may be, of paragraph (1) shall not apply with respect to the same portion of such interest.

(5) The additional tax imposed by this subsection shall become due and payable on the day which is six months after the date of the disposition or cessation referred to in paragraph (1).

(6) The qualified heir shall be personally liable for the additional tax imposed by this subdivision with respect to his or her interest unless the heir has furnished a bond which meets the requirements of subdivision (e) (11).

(7) For purposes of paragraph (1) (B), real property shall cease to be used for the qualified use if—

(A) Such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b) (2) under which the property qualified under subdivision (b), or

(B) During any period of eight years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating three years or more during which—

(i) In the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his or her family in the operation of the farm or other business, and

(ii) In the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his or her family in the operation of the farm or other business.

(d) Elections and agreements are as follows—

(1) The election under this section shall be made not later than the time prescribed by Section 14103 (including extensions thereof), and shall be made in such manner as the Controller shall by regulations prescribe.

(2) The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subdivision (c) with respect to such property.

(e) For purposes of this section—

(1) The term "qualified heir" means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his or her family, such member shall thereafter be treated as the qualified heir with respect to such interest.

(2) The term "member of the family" means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

(3) In the case of real property which meets the requirements of subparagraph (C) of subdivision (b)(1), residential buildings and related improvements on such real property occupied on a regular basis by the owner or lessee of such real property or by persons employed by such owner or lessee for the purpose of operating or maintaining such real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

(4) The term "farm" includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands.

(5) The term "farming purposes" means—

(A) Cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training, and management of animals) on a farm;

(B) Handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

(C) (i) The planting, cultivating, caring for, or cutting of trees, or

(ii) The preparation (other than milling) of trees for market.

(6) Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of Section 1402(a) of the Internal Revenue Code (relating to net earnings from self-employment).

(7) Method of valuing farms as follows—

Except as provided in subparagraph (B), the value of a farm for farming purposes shall be determined by dividing—

(i) The excess of the average annual gross cash rental for comparable land used for farming purposes and located in the locality of such farm over the average annual state and local real estate taxes for such comparable land, by

(ii) The average annual effective interest rate for all new Federal Land Bank loans.

For purposes of the preceding sentence, each average annual computation shall be made on the basis of the five most recent calendar years ending before the date of the decedent's death.

The formula provided by subparagraph (A) shall not be used—

(i) Where it is established that there is no comparable land from which the average annual gross cash rental may be determined, or

(ii) Where the executor elects to have the value of the farm for farming purposes determined under paragraph (8).

(8) In any case to which paragraph (7)(A) does not apply, the following factors shall apply in determining the value of any qualified real property:

(A) The capitalization of income which the property can be expected to yield for farming or closely held business purposes over a reasonable period of time under prudent management using traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors.

(B) The capitalization of the fair rental value of the land for farmland or closely held business purposes.

(C) Assessed land values in a state which provides a differential or use value assessment law for farmland or closely held business.

(D) Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price, and

(E) Any other factor which fairly values the farm or closely held business value of the property.

(9) Property shall be considered to have been acquired from or to have passed from the decedent if—

(A) Such property is so considered under Section 1014(b) of the Internal Revenue Code (relating to basis of property acquired from a decedent),

(B) Such property is acquired by any person from the estate in satisfaction of the right of such person to a pecuniary bequest, or

(C) Such property is acquired by any person from a trust in satisfaction of a right (which such person has by reason of the death

of the decedent) to receive from the trust a specific dollar amount which is the equivalent of a pecuniary bequest.

(10) If the decedent and his or her surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in such property shall be taken into account under this section to the extent necessary to provide a result under this section with respect to such property which is consistent with the result which would have obtained under this section if such property had not been community property.

(11) If the qualified heir makes written application to the Controller for determination of the maximum amount of the additional tax which may be imposed by subdivision (c) with respect to the qualified heir's interest, the Controller (as soon as possible, and in any event within one year after the making of such application) shall notify the heir of such maximum amount. The qualified heir, on furnishing a bond in such amount and for such period as may be required, shall be discharged from personal liability for any additional tax imposed by subdivision (c) and shall be entitled to a receipt or writing showing such discharge.

(f) If qualified real property is disposed of or ceases to be used for a qualified use, then—

(1) The statutory period for the assessment of any additional tax under subdivision (c) attributable to such disposition or cessation shall not expire before the expiration of three years from the date the Controller is notified (in such manner as the Controller may by regulations prescribe) of such disposition or cessation (or if later in the case of an involuntary conversion to which an election under subdivision (h) applies, three years from the date the Controller is notified of the replacement of the converted property or of an intention not to replace); and

(2) Such additional tax may be assessed before the expiration of such three-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(h) Special rules for involuntary conversion of qualified real property are as follows:

(1) (A) If there is an involuntary conversion of an interest in qualified real property and the qualified heir makes an election under this subdivision—

(i) No tax shall be imposed by subdivision (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion, or

(ii) If clause (i) does not apply, the amount of the tax imposed by subdivision (c) on such conversion shall be the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph with respect to any involuntary conversion is the amount of the tax which (but for this subdivision) would have been imposed on such conversion reduced by an amount which—

(i) Bears the same ratio to such tax, as

(ii) The cost of the qualified replacement property bears to the amount realized on the conversion.

(2) For purposes of subdivision (c)—

(A) Any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was involuntarily converted, except that with respect to such qualified replacement property—

(i) The 15-year period under paragraph (1) of subdivision (c) shall be extended by any period, beyond the two-year period referred to in Section 1033(a)(2)(B)(i) of the Internal Revenue Code, during which the qualified heir was allowed to replace the qualified real property, and

(ii) The phaseout period under paragraph (3) of subdivision (c) shall be appropriately adjusted to take into account the extension referred to in clause (i).

(B) Any tax imposed by subdivision (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

(C) Paragraph (7) of subdivision (c) shall be applied—

(i) By not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property, and

(ii) By treating material participation with respect to the converted property as material participation with respect to the qualified replacement property.

(3) For purposes of this subdivision—

(A) "Involuntary conversion" means a compulsory or involuntary conversion within the meaning of Section 1033 of the Internal Revenue Code.

(B) The term "qualified replacement property" means—

(i) In the case of an involuntary conversion described in Section 1033(a)(1) of the Internal Revenue Code, any real property into which the qualified real property is converted, or

(ii) In the case of an involuntary conversion described in Section 1033(a)(2) of the Internal Revenue Code, any real property purchased by the qualified heir during the period specified in Section 1033(a)(2)(B) of the Internal Revenue Code for purposes of replacing the qualified real property.

Such term only includes property which is to be used for the qualified use set forth in subparagraph (A) or (B) of subdivision (b)(2) under which the qualified real property qualified under subdivision (a).

(4) The rules of the last sentence of Section 1033(a)(2)(A) of the Internal Revenue Code shall apply for purposes of paragraph (3)(b)(ii).

(5) Any election under this subdivision shall be made at such time and in such manner as the Controller may by regulations prescribe.

SEC. 2.5. Section 13314 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 13551 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 13552.5 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 13554 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 13554.5 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 13555 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 13556 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 13556.5 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 13557 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 13801 of the Revenue and Taxation Code is amended to read:

13801. (a) Property of the clear market value of forty thousand dollars ($40,000) transferred to a minor child of the decedent is exempt from the tax imposed by this part.

(b) Property of the clear market value of an amount equal to ten thousand dollars ($10,000) multiplied by the excess of 21 over the age (in years) of a child of the decedent who is under the age of 18 at the date of death of the decedent, provided the decedent does not have a surviving spouse and that such child, immediately after the death of the decedent, has no known parent, is exempt from the tax imposed by this part.

(c) Property of the clear market value of twenty thousand dollars ($20,000) transferred to any other class A transferee, other than the spouse of the decedent, is exempt from the tax imposed by this part.

SEC. 12. Section 13802 of the Revenue and Taxation Code is amended to read:

13802. Property of the clear market value of ten thousand dollars ($10,000) transferred to any class B transferee is exempt from the tax imposed by this part.

SEC. 13. Section 13803 of the Revenue and Taxation Code is amended to read:

13803. Property of the clear market value of three thousand dollars ($3,000) transferred to any class C transferee is exempt from the tax imposed by this part.

SEC. 15. Section 13805 of the Revenue and Taxation Code is amended to read:

13805. None of the property transferred to the spouse of the decedent is subject to this part, except that if a limited power of appointment over any portion or all of the decedent's property is given to the spouse of the decedent, the value of such property is subject to this part; provided, however, that the value of any interest, other than the power itself, given to the spouse of the decedent in

such property is not subject to this part.

SEC. 15.2. Section 14104 of the Revenue and Taxation Code is amended to read:

14104. Every tax imposed by this part shall be paid to the Controller by remittance payable to the State Treasurer.

SEC. 15.3. Section 14128 of the Revenue and Taxation Code is amended to read:

14128. Within 30 days after the date of the deduction or collection of a tax by him or her, the executor, administrator, or trustee shall pay the tax to the Controller by remittance payable to the State Treasurer.

SEC. 15.4. Section 14141 of the Revenue and Taxation Code is repealed.

SEC. 15.5. Section 14142 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 14143 of the Revenue and Taxation Code is repealed.

SEC. 16.5. Section 14143.5 of the Revenue and Taxation Code is amended to read:

14143.5. If the Controller finds that payment of any tax imposed by this part would result in undue hardship to the estate, he may enter into a written agreement for payment of the tax with the executor, administrator, trustee or transferee liable for its payment upon such terms and conditions as the Controller in his discretion may provide, and provided that the Controller finds that payment of the tax plus interest due thereon is adequately secured.

Undue hardship shall include, but not be limited to, the hardship resulting from the payment of taxes imposed pursuant to the provisions of this part on class A or class B beneficiaries on a qualified family property, and shall include the inability to secure a loan against such qualified property at a rate of interest at the rate specified in subdivision (b) of Section 14211 or less or the necessity for selling an interest in a family business to unrelated persons.

SEC. 16.7. Section 14144 of the Revenue and Taxation Code is repealed.

SEC. 17. Section 14180 is added to the Revenue and Taxation Code, to read:

14180. The Controller may, for reasonable cause, provided that the Controller finds that payment of the tax plus interest is adequately secured, extend the time for payment of any part of the amount determined as the tax imposed by this part, or any part of any installment under Section 14105, 14181 or 14182 for a reasonable period not in excess of 10 years from the date prescribed by Section 14103 for payment of the tax or, in the case of an installment amount referred to in this section, if later, not beyond the date which is 12 months after the due date for the last installment.

For purposes of this section, "reasonable cause" includes the circumstances of a taxpayer who is a beneficiary of some or all of the decedent's works of art, if the decedent is an artist and if the value

of an interest in works in art created by such decedent artist which is included in determining the gross estate of a decedent artist exceeds:

(a) Thirty-five percent of the value of the gross estate of such decedent artist, or

(b) Fifty percent of the taxable estate of such decedent artist.

For purposes of this paragraph, "works of art" are defined pursuant to paragraph (1) of subdivision (a) of Section 217, and an "artist" is an individual who creates such "works of art."

SEC. 18. Section 14181 is added to the Revenue and Taxation Code, to read:

14181. (a) (1) If the value of an interest in a closely held business which is included in determining the market value of the estate of a decedent who was (at the date of his or her death) a citizen or resident of the United States exceeds 65 percent of the clear market value of the estate, the executor may elect to pay part or all of the tax imposed by this part in two or more (but not exceeding 10) equal installments.

(2) The maximum amount of tax which may be paid in installments under this subdivision shall be an amount which bears the same ratio to the tax imposed by this part (reduced by the credits against such tax) as—

(A) The closely held business amount, bears to

(B) The amount of the clear market value of the estate.

(3) If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not more than five years after the date prescribed by Section 14103, and each succeeding installment shall be paid on or before the date which is one year after the date prescribed by this paragraph for payment of the preceding installment.

(4) No election may be made under this section by the executor of the estate of any decedent if an election under Section 14182 applies with respect to the estate of such decedent.

(b) (1) For purposes of this section, "interest in a closely held business" means any of the following:

(A) An interest as a proprietor in a trade or business carried on as a proprietorship.

(B) An interest as a partner in a partnership carrying on a trade or business, if either of the following applies:

(i) Twenty percent or more of the total capital interest in such partnership is included in determining the market value of the estate of the decedent.

(ii) Such partnership had 15 or fewer partners.

(C) Stock in a corporation carrying on a trade or business if either of the following applies:

(i) Twenty percent or more in value of the voting stock of such corporation is included in determining the market value of the estate of the decedent.

(ii) Such corporation had 15 or fewer shareholders.

(2) For purposes of paragraph (1):

(A) Determinations shall be made as of the time immediately before the decedent's death.

(B) Stock or a partnership interest which—

(i) Is community property of a husband and wife (or the income from which is community income), or

(ii) Is held by a husband and wife as joint tenants, or tenants in common, shall be treated as owned by one shareholder or one partner, as the case may be.

(C) Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

(D) All stock and all partnership interests held by the decedent or by any member of his family (within the meaning of Section 267(c)(4) of the Internal Revenue Code) shall be treated as owned by the decedent.

(3) For purposes of the 65-percent requirement of paragraph (1) of subdivision (a), an interest in a closely held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

(4) For purposes of this section, value shall be value determined for purposes of this part.

(5) For purposes of this section, "closely held business amount" means the value of the interest in a closely held business which qualifies under subdivision (a)(1).

(6) (A) If the executor elects the benefits of this paragraph (at such time and in such manner as the Controller shall by regulations prescribe), then—

(i) For purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subdivision (c), any capital interest in a partnership and any nonreadily tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the market value of the decedent's estate, and

(ii) The executor shall be treated as having selected under subsection (a)(3) the date prescribed by Section 14103.

(B) For purposes of this paragraph, the term "nonreadily tradable stock" means stock for which, at the time of the decedent's death, there was no market on a stock exchange or in an over-the-counter market.

(c) For purposes of this section, interests in two or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate more than 20

percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants or tenants in common shall be treated as having been included in determining the value of the market value of the decedent's estate.

(d) Any election under subdivision (a) shall be made not later than the time prescribed by Section 14103. If an election under subdivision (a) is made, the provisions of this chapter shall apply as though the Controller were extending the time for payment of the tax.

(e) If an election is made under subdivision (a) to pay any part of the tax imposed by this part in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by paragraph (2) of subdivision (a)) be prorated to the installments payable under subdivision (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Controller. This subdivision shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(f) If the time for payment of any amount of tax has been extended under this section—

(1) Interest payable under Section 14211 on any unpaid portion of such amount attributable to the first five years after the date prescribed by Section 14103 shall be paid annually.

(2) Interest payable under Section 14211 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

(3) In the case of a deficiency to which subdivision (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Controller.

(4) If the executor has selected a period shorter than five years under paragraph (3) of subdivision (a), such shorter period shall be substituted for five years in paragraphs (1), (2), and (3) of this subdivision.

(g) (1) (A) If—

(i) One-third or more in value of an interest in a closely held business which qualifies under paragraph (1) of subdivision (a) is distributed, sold, exchanged, or otherwise disposed of, or

(ii) Aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under paragraph (1) of subdivision (a), made with respect to such interest, equal or exceed one-third of the value of such trade or business,

then the extension of time for payment of tax provided in subdivision (a) shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Controller.

(B) In the case of a distribution in redemption of stock to which Section 303 of the Internal Revenue Code (or so much of Section 304 of the Internal Revenue Code as relates to Section 303) applies—

(i) Subparagraph (A) (i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and

(ii) Subparagraph (A) (ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed.

This subparagraph shall apply only if, on or before the date prescribed by paragraph (3) of subdivision (a) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is one year after the date of the distribution), there is paid an amount of the tax imposed by this part not less than the amount of money and other property distributed.

(C) Subparagraph (A) (i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of Section 368(a) (1) of the Internal Revenue Code nor to an exchange to which Section 355 of the Internal Revenue Code (or so much of Section 356 of the Internal Revenue Code as relates to Section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A) (i) as an interest qualifying under paragraph (1) of subdivision (a).

(D) Subparagraph (A) (i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

(2) (A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

(B) For purposes of subparagraph (A), the undistributed net

income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in Section 643 of the Internal Revenue Code) exceeds the sum of all of the following:

(i) The amounts for such taxable year specified in paragraphs (1) and (2) of Section 661(a) of the Internal Revenue Code (relating to deduction for distributions, etc.).

(ii) The amount of California and federal income taxes imposed for the taxable year on the estate;

(iii) The amount of the tax imposed by this part (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph); and

(iv) The amount of federal estate tax (including interest) paid by the executor during the taxable year.

(3) If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Controller.

(h) (1) If—

(A) A deficiency in the tax imposed by this part is assessed,

(B) The estate qualifies under paragraph (1) of subdivision (a), and

(C) The executor has not made an election under subdivision (a),

the executor may elect to pay the deficiency in installments. This subdivision shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(2) An election under this subdivision shall be made not later than 60 days after issuance of notice and demand by the Controller for the payment of the deficiency, and shall be made in such manner as the Controller shall by regulations prescribe.

(3) If an election is made under this subdivision, the deficiency shall (subject to the limitation provided by paragraph (2) of subdivision (a)) be prorated to the installments which would have been due if an election had been timely made under subdivision (a).

The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subdivision. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

(i) The Controller shall prescribe such regulations as may be necessary to the application of this section.

SEC. 19. Section 14182 is added to the Revenue and Taxation Code, to read:

14182. (a) If the value of an interest in a closely held business which is included in determining the market value of the estate of

a decedent who was (at the date of his death) a citizen or resident of the United States exceeds either—

(1) Thirty-five percent of the market value of the estate of such decedent, or

(2) Fifty percent of the clear market value of the estate of such decedent,

the executor may elect to pay part or all of the tax imposed by this part in two or more (but not exceeding 10) equal installments. Any such election shall be made no later than the time prescribed by Section 14103, and payment shall be made in such manner as the Controller shall by regulations prescribe. If an election under this section is made, the provisions of this chapter shall apply as though the Controller were extending the time for payment of the tax.

(b) The maximum amount of tax which may be paid in installments as provided in this section shall be an amount which bears the same ratio to the tax imposed by this part (reduced by the credits against such tax) as the value of the interest in a closely held business which qualifies under subdivision (a) bears to the market value of the estate.

(c) For purposes of this section, the term "interest in a closely held business" means any of the following:

(1) An interest as a proprietor in a trade or business carried on as a proprietorship.

(2) An interest as a partner in a partnership carrying on a trade or business, if either of the following applies:

(A) Twenty percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent.

(B) Such partnership had 10 or less partners.

(3) Stock in a corporation carrying on a trade or business, if either of the following applies:

(A) Twenty percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent.

(B) Such corporation had 10 or less shareholders.

For purposes of this subdivision, determinations shall be made as of the time immediately before the decedent's death.

(d) For purposes of subdivisions (a), (b), and (h) (1), interests in two or more closely held businesses, with respect to each of which there is included in determining the market value of the decedent's estate more than 50 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 50-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property shall be treated as having been included in determining the market value of the decedent's estate.

(e) If an election is made under subdivision (a), the first installment shall be paid on or before the date prescribed by Section

14103 for payment of the tax, and each succeeding installment shall be paid on or before the date which is one year after the date prescribed by this subdivision for payment of the preceding installment.

(f) If an election is made under subdivision (a) to pay any part of the tax imposed by this part in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subdivision (b)) be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Controller. This subdivision shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(g) If the time for payment of any amount of tax has been extended under this section, interest payable under Section 14211 on any unpaid portion of such amount shall be paid annually at the same time as, and as part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Controller.

(h) (1) (A) If—

(i) Aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subdivision (a), made with respect to such interest, equal or exceed 50 percent of the value of such trade or business, or

(ii) Fifty percent or more in value of an interest in a closely held business which qualifies under subdivision (a) is distributed, sold, exchanged, or otherwise disposed of,

then the extension of time for payment of tax provided in this section shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Controller.

(B) In the case of a distribution in redemption of stock to which Section 303 of the Internal Revenue Code (or so much of Section 304 of the Internal Revenue Code as relates to Section 303) applies—

(i) Subparagraph (A) (i) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed, and

(ii) Subparagraph (A) (ii) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed.

This subparagraph shall apply only if, on or before the date prescribed by subdivision (e) for payment of the first installment which becomes due after the date of the distribution, there is paid an amount of the tax imposed by this part not less than the amount of money and other property distributed.

(C) Subparagraph (A) (ii) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of Section 368(a) (1) of the Internal Revenue Code nor to an exchange to which Section 355 of the Internal Revenue Code (or so much of Section 356 of the Internal Revenue Code as relates to Section 355) applies; but any stock received in such an exchange shall be treated for purposes of such subparagraph as an interest qualifying under subdivision (a).

(D) Subparagraph (A) (ii) does not apply to a transfer of property of the decedent by the executor to a person entitled to receive such property under the decedent's will or under the applicable law of descent and distribution.

(2) (A) If an election is made under this section and the estate has undistributed net income for any taxable year after its fourth taxable year, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in Section 643 of the Internal Revenue Code) exceeds the sum of all of the following:

(i) The amounts for such taxable year specified in paragraphs (1) and (2) of Section 661(a) of the Internal Revenue Code (relating to deduction for distributions, etc.).

(ii) The amount of California and federal income taxes imposed for the taxable year on the estate.

(iii) The amount of the tax imposed by this part (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

(iv) The amount of federal estate tax (including interest) paid by the executor during the taxable year.

(3) If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Controller.

(i) (1) If—

(A) A deficiency in the tax imposed by this part is assessed after the date of the enactment of this section, and

(B) The estate qualifies under paragraph (1) or (2) of subdivision (a),

the executor may elect to pay the deficiency in installments. This subdivision shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(2) An election under this subdivision shall be made not later than 60 days after the issuance of notice and demand by the Controller for the payment of the deficiency.

(3) If an election is made under this subdivision, the deficiency shall (subject to the limitation provided by subdivision (b)) be prorated to the installments which would have been due if an election had been timely made under this section at the time the estate tax return was filed.

The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subdivision. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

(j) The Controller shall prescribe such regulations as may be necessary to the application of this section.

SEC. 20. Section 14211 of the Revenue and Taxation Code is amended to read:

14211. (a) The tax does not bear interest if it is paid prior to the date on which it otherwise becomes delinquent. However, if it is paid after that date it bears interest at the rate of 12 percent per annum from the date it became delinquent and until it is paid or, in the case of any tax being paid in installments pursuant to Section 14105, 14143.5, 14181, or 14182, at the adjusted rate of interest provided in subdivision (b) of this section or at 12 percent per annum, whichever is lower, until the date prescribed for payment of such installment, and thereafter at the rate of 12 percent per annum.

(b) The initial adjusted rate of interest shall be 11 percent per annum. The Controller shall establish an adjusted rate of interest for the purpose of this section not later than October 15 of any year if the adjusted prime rate charged by banks (that being 90 percent of the average predominate rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System) during September of that year, rounded to the nearest full percent, is at least a full percentage point more or less than the adjusted rate of interest which is then in effect. Any such adjusted rate of interest shall be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and shall become effective on February 1 of the immediately succeeding year. Any adjustment provided for under this subdivision may not be made prior to the expiration of 23 months following the date of any preceding adjustment under this subdivision which changes the rate of interest.

SEC. 21. Section 14342 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 14343 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 14344 of the Revenue and Taxation Code is repealed.

SEC. 24. Section 14345 of the Revenue and Taxation Code is amended to read:

14345. No trust company, corporation, bank, other institution, or person in possession, control, custody, partial control, or partial custody of any securities, deposits, or other property, including shares of the capital stock of or other interest in any such organization or institution, belonging to or standing in the name of a decedent, whether resident or nonresident, shall deliver or transfer any such property to or upon the order or request of any executor of the will, administrator of the estate, legatee or heir of the decedent; nor deliver or transfer any such property to or upon the order of any agent, deputy, attorney, trustee or successor in interest of the decedent after receipt of actual notice of the death of the decedent; nor deliver or transfer any securities or other property, including any shares of the capital stock or other interest in any such organization or institution, standing in the joint names of the decedent and one or more other persons, to or upon the order or request of such other person or persons after receipt of actual notice of the death of the decedent; and no bank or other institution having custody of any deposit standing in the joint names of a decedent and any other person or persons or standing in the name of the decedent subject to the right of any other person or persons to draw upon or withdraw the same shall pay or deliver such deposit to or upon the order of such other person or persons after receipt of actual notice of the death of the decedent by the officer or manager in charge of the office or branch of such bank or other institution at which such deposit is carried or by the employee thereof who pays or delivers said deposit:

(a) Without retaining a sufficient portion or amount of the property to pay any tax and interest which may thereafter be assessed pursuant to this part; and

(b) Without first giving notice of the time and place of the delivery or transfer to the Controller and county treasurer at least 10 days prior to the delivery or transfer.

The Controller, or any person authorized in writing by the Controller, may consent in writing to the delivery or transfer, in which event compliance with this section is not required.

The Controller or his or her authorized agent may examine any property specified in this section at the time of its delivery or at any other time.

SEC. 25. Section 14346 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 14347 of the Revenue and Taxation Code is amended to read:

14347. Any trust company, corporation, bank, other institution, or

person required to comply with the provisions of this article but failing to do so is liable to the state for the amount of any tax, interest or penalty due and payable under this part on the transfer of the property involved, if solely by reason of such transfer or payment the state is unable to recover the same.

The liabilities imposed by this section may be enforced by the Controller in an action brought in any court of competent jurisdiction.

SEC. 27. Section 14774 of the Revenue and Taxation Code is amended to read:

14774. For the services performed by him or her pursuant to this part, the inheritance tax referee shall be paid out of the Inheritance Tax Fund:

(a) Such reasonable compensation as the Controller shall fix.

(b) Such actual and necessary traveling and other incidental expenses, including fees paid to witnesses subpoenaed by him or her, as the Controller shall allow.

No payment shall be made unless the claim for payment is first approved by the Controller.

Any payment under this section is in addition to any other payment to the referee pursuant to Section 609 of the Probate Code.

SEC. 28. Section 14791 of the Revenue and Taxation Code is repealed.

SEC. 29. Section 14792 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 14793 of the Revenue and Taxation Code is repealed.

SEC. 31. Section 14794 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 14795 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 14798 of the Revenue and Taxation Code is repealed.

SEC. 34. Section 14902 of the Revenue and Taxation Code is amended to read:

14902. The money in the Inheritance Tax Fund is hereby appropriated as follows:

(a) To pay the refunds authorized by this part and by Part 9.5 (commencing with Section 16700) of this division.

(b) To pay the compensation and expenses of the referee referred to in Section 14774.

(c) The balance of the money in the fund shall, on order of the Controller, be transferred to the State General Fund.

SEC. 35. Section 15104.5 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 15301 of the Revenue and Taxation Code is repealed.

SEC. 38. Section 15301.5 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 15303.5 of the Revenue and Taxation Code is repealed.

SEC. 40. Section 15310 of the Revenue and Taxation Code is amended to read:

15310. In the case of a transfer to either spouse by the other, none of the property transferred is subject to this part, except that if a limited power of appointment over any portion or all of the donor's property is given to the donor's spouse, the value of such property is subject to this part; provided, however, that the value of any interest, other than the power itself, given to the donor's spouse in such property is not subject to this part.

SEC. 41. Section 15421 of the Revenue and Taxation Code is amended to read:

15421. Property of the clear market value of forty thousand dollars ($40,000) transferred to a minor child of the donor, and of twenty thousand dollars ($20,000) transferred to any other class A donee, other than the spouse of the donor, is exempt from the tax imposed by this part.

SEC. 42. Section 15422 of the Revenue and Taxation Code is amended to read:

15422. Property of the clear market value of ten thousand dollars ($10,000) transferred to any class B donee is exempt from the tax imposed by this part.

SEC. 43. Section 15423 of the Revenue and Taxation Code is amended to read:

15423. Property of the clear market value of three thousand dollars ($3,000) transferred to any class C donee is exempt from the tax imposed by this part.

SEC. 45. The sum of four hundred thousand dollars ($400,000) is hereby appropriated to the Controller for the purpose of administering this act.

SEC. 46. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act with respect to the computation of inheritance taxes shall apply only to the estates of decedents dying on and after January 1, 1981, and with respect to the computation of gift taxes, shall apply only to gifts made on and after January 1, 1981. All other provisions of this act relating to probate procedure and tax administration and collection, shall apply to all estates, effective January 1, 1981.

CHAPTER 635

An act to add and repeal Section 66770.5 to the Government Code, relating to solid waste.

[Approved by Governor July 19, 1980 Filed with
Secretary of State July 20, 1980]

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

SECTION 1. Section 66770.5 is added to the Government Code, to read:

66770.5. (a) The State Solid Waste Management Board shall adopt not later than January 1, 1981, performance standards as an alternative to state minimum standards requiring periodic cover.

(b) In order to protect the public health and the environment, the performance standards, referred to in subdivision (a), shall, at a minimum, address the control of vectors, odor, fire, litter, and moisture infiltration at solid waste disposal sites.

(c) The local enforcement agency may elect to apply either the state minimum standard requiring periodic cover or the performance standards, described in subdivision (b), to solid waste disposal sites within its jurisdiction. Not later than 30 days prior to implementation of either performance standards or state minimum standards requiring periodic cover, the local enforcement agency shall notify the board of such election.

(d) If the board fails to adopt the performance standards by January 1, 1981, the daily coverage requirements for the active face of a disposal site may, at the discretion of the local enforcement agency, be determined solely by the local enforcement agency. For any determination of daily coverage requirements for the active face of a disposal site made pursuant to this section which are less stringent than those standards established by the State Solid Waste Management Board pursuant to Sections 66770 and 66771, the local enforcement agency shall make a finding that such daily coverage requirements are adequate to effectively prevent propagation or attraction of flies, rodents, or other vectors, to control landfill fires and litter, and to prevent the creation of nuisances.

(e) No collection vehicle shall be required to travel on the active face of a disposal site.

(f) This section shall not prevent the State Solid Waste Management Board from taking any enforcement action for which it is granted authority under Title 7.3 (commencing with Section 66700).

(g) This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

CHAPTER 636

An act to add Chapter 6.6 (commencing with Section 12665), Chapter 14 (commencing with Section 13400), Chapter 15 (commencing with Section 13700), Chapter 16 (commencing with Section 13800), and Chapter 17 (commencing with Section 13900) to Division 5 of, and to repeal Article 1 (commencing with Section 12900) of Chapter 9, Chapter 10 (commencing with Section 13000), and Chapter 11 (commencing with Section 13100) of Division 5 of, and Chapter 5 (commencing with Section 19800), Chapter 7 (commencing with Section 20700), Chapter 10 (commencing with Section 21700), Chapter 11 (commencing with Section 21800), and Chapter 11.5 (commencing with Section 21900) of Division 8 of, the Business and Professions Code, relating to product standards.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Chapter 6.6 (commencing with Section 12665) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 6.6. STANDARD BREAD LOAF

12665. All loaves of bread, sliced or unsliced, made or procured for the purpose of sale, sold, offered or exposed for sale in the State of California shall weigh as specified in this chapter.

12666. A "standard small loaf" of bread shall weigh eight ounces (½ lb.) net weight; provided any bakery may bake, and sell upon the premises where baked, loaves of bread which weigh less than eight ounces, net, avoirdupois.

12667. A "standard loaf" of bread shall weigh 16 ounces (1 lb.) net weight.

12668. A "standard large loaf" of bread shall weigh 24 ounces (1½ lbs.) net weight.

12669. Larger loaves having weights that are multiples of the weight of a "standard loaf" may be made or procured for sale. Loaves larger than three pounds may only be sold to restaurants, caterers, sandwich makers, hotels, commissaries, institutions, and public eating places.

12670. Whenever any bread is wrapped, in any wrapping, for sale through retail outlets, there shall appear on the body of the wrapping, or on the insert band, in letters clear and legible in a minimum height of one-quarter inch the content declaration which complies in all respects with Chapter 6 (commencing with Section 12601) and with the act of Congress entitled the "Fair Packaging and Labeling Act" (P.L. 89-755).

12671. Any person, firm, or corporation who makes or procures

for the purpose of sale, sells, or offers or exposes for sale within the State of California any bread in loaves otherwise than as provided in this chapter, or in conflict with the standard weights of bread when baked as fixed by this chapter, is guilty of a misdemeanor.

12672. The check weighing of bread by a weights and measures official shall be made on the premises of the baker, or the retail store from which the bread is offered for sale, and shall be governed in all respects by the provisions of Article 5 (commencing with Section 2930) of Subchapter 2 of Chapter 8 of Title 4 of the California Administrative Code.

12673. The provisions of this chapter shall not apply to "stale bread" when sold as such.

SEC. 2. Article 1 (commencing with Section 12900) of Chapter 9 of Division 5 of the Business and Professions Code is repealed.

SEC. 3. Chapter 10 (commencing with Section 13000) of Division 5 of the Business and Professions Code is repealed.

SEC. 4. Chapter 11 (commencing with Section 13100) of Division 5 of the Business and Professions Code is repealed.

SEC. 5. Chapter 14 (commencing with Section 13400) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 14. PETROLEUM

Article 1. General Provisions

13400. "Advertising medium," as used in this chapter, includes banner, sign, placard, poster, streamer, and card.

13401. (a) "Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale.

(b) "Manufacturer" means manufacturer, refiner, producer, or importer.

(c) "Petroleum products" means gasoline, diesel fuel, liquefied petroleum gas only when used as a motor fuel, kerosene, thinner, solvent, liquefied natural gas, pressure appliance fuel, or white gasoline, or any motor fuel, or any oil represented as engine lubricant, engine oil, lubricating or motor oil, or any oil used to lubricate transmissions, gears, or axles.

(d) "Barrel," when applied to petroleum products, consists of 42 gallons.

(e) "Oil" means motor oil, engine lubricant, engine oil, lubricating oil, or oils used to lubricate transmissions, gears, or axles.

(f) "Motor oil" means engine oil, engine lubricant, or lubricating oil.

(g) "Gasoline," as used in this chapter, means any petroleum product offered for sale which meets the standards prescribed for gasoline by this chapter.

13402. "Standard test," as used in this chapter, means test conducted in accordance with the latest published standard adopted

by the American Society for Testing and Materials.

13403. "Octane number" or "antiknock index number," when used in this chapter, means that number assigned to a motor fuel which designates the antiknock quality of that motor fuel. Such "octane number" or "antiknock index number" shall be determined according to the latest American Society for Testing and Materials method or methods of test for knock characteristics of motor fuels as outlined in the latest American Society for Testing and Materials D-439.

Article 2. Sale of Petroleum Products

13410. (a) No person who is engaged in the business of extracting oil or gas from lands within the state, or of refining gasoline for sale within the state, may refuse to sell to any city or county sufficient quantities of his or her petroleum products for the essential services provided by such city or county.

(b) The board of supervisors of a county or its designated county agency, upon application for the purchase of petroleum products to perform essential services by a city within that county, by any agency of such city or county which performs an essential service, or by any transit district created pursuant to law, may arrange for such purchase and shall apportion the purchase among all persons specified in subdivision (a) who engage in the sale of petroleum products within that county. The board of supervisors or its designated county agency shall, to the extent possible, apportion the total purchase of the petroleum product on the basis of such persons' sales of such petroleum product in the county during the most recent 90-day period for which information is available.

(c) For the purposes of this section, "essential services" means police, fire, health, and transportation services provided by public agencies.

13411. It is unlawful for any person to sell or offer to sell petroleum products for use in any vehicle, as the term vehicle is defined by the Vehicle Code, on the condition that the purchaser also must purchase or pay for any merchandise or services.

Notwithstanding the provisions of Section 13590, the district attorney of each county shall enforce the provisions of this section.

Article 3. Hours of Business

13420. Every person, firm, partnership, association, trustee, or corporation which owns, leases, or rents and operates a gasoline service station or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility abutting or adjacent to a street or highway shall accurately update all signs, banners, or other advertising media which indicate hours of such sale. Advertising media indicating hours of sale shall be updated on a monthly basis.

13421. Every person, firm, partnership, association, trustee, or corporation which owns, leases, or rents and operates a gasoline service station or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility abutting or adjacent to a street or highway shall turn off all outdoor lighted advertising media at their place of business when they are not open for business. This section shall only apply to the service station and not the retail business in a situation where gasoline service station or other facility is a part of and adjacent to a retail business provided the retail sale of gasoline or other motor vehicle fuel is not the primary purpose of that business.

13422. A violation of this article is an infraction punishable by a fine not to exceed fifty dollars ($50).

Article 4. Motor Oil Fee

13430. As used in this article, "motor oil dealer" means any person, firm, or corporation engaged in the business of producing, packaging, or otherwise preparing motor oil for market, or selling or distributing motor oil.

Notwithstanding any other provision of this division, and for the purpose of this article, "motor oil" means any product used to lubricate the moving parts of an internal combustion engine.

13431. The following persons shall pay to the director a maximum fee of four-tenths of one cent ($0.004) for each gallon of motor oil sold or purchased as hereinafter provided:

(a) The first person who produced the motor oil shall pay the fee when the motor oil is sold to any retail establishment or motor oil dealer including any sold to the federal government, or its agencies.

(b) A retailer shall pay the fee for motor oil received when he or she transports or causes to be transported motor oil into this state from out-of-state.

(c) On any other sale of motor oil the dealer shall pay the fee except that this subdivision shall not apply to any person selling motor oil at retail.

(d) The assessment provided for in this section shall only be paid once on any particular motor oil.

13432. The fees provided in Section 13431 are maximum fees and may be established at a lower rate by the director at any time the funds derived from such assessment are more than reasonably necessary to cover the cost of administration and enforcement of this chapter, including the maintenance of a reasonable reserve fund for such purposes.

13433. The director may, by regulation, prescribe the frequency of payments of such assessments, the procedures for such payment, the procedures for refunds of payment, and penalties for late payment.

13434. The moneys which are received by the director pursuant to this chapter shall be deposited in the Department of Food and

Agriculture Fund and shall be used only for the administration and enforcement of Chapters 14 (commencing with Section 13400), 15 (commencing with Section 13700), 16 (commencing with Section 13800), and 17 (commencing with Section 13900).

Article 5. Standards for Gasoline

13440. Gasoline, as defined in this chapter, means any liquid petroleum product which conforms to the specifications of this article. The department shall have the authority to promulgate and enforce such rules and regulations as are necessary to carry out the provisions of this article. In promulgating such rules and regulations, the department shall adopt the latest standards as set forth in American Society for Testing and Materials D-439, except that vapor pressure specifications shall not be more than the maximum specified by any California state law.

13441. It is unlawful for any person to sell, offer for sale, assist in the sale of, permit to be sold or offered for sale, or deliver or offer to deliver to any premises for the purpose of sale, any product as, or purporting to be, "gasoline," unless the product conforms to the specifications of this article.

13442. It is unlawful for any person to sell, offer for sale, or cause or permit to be sold or offered for sale, or deliver or offer for delivery, any petroleum product as a fuel for internal combustion engines at any place where petroleum products are kept or stored for sale, which does not conform to the requirements of this article, unless and until there shall be firmly attached to or painted upon each container, receptacle, pump, and inlet end of the fill-pipe of each underground storage tank, from which or into which such petroleum product is drawn or poured for sale or delivery, a sign or label, plainly visible, comprising the brand, trademark, or trade name of such fuel, or the words "no brand," which words shall be in letters of gothic type with a stroke of not less than one-eighth inch in width and not less than one inch in height, and also the words "not gasoline" in red letters of gothic type with a stroke of not less than one-half inch in width and not less than three inches in height, on a white background and not less than twice the size of any other letters or words appearing on or near the label or sign.

The provisions of this article, as to the words "not gasoline," shall not apply to signs or labels used in connection with the sale or delivery of kerosene, jet or turbine fuel, diesel fuel, liquefied petroleum gas, or motor fuel comprised of a mixture of gasoline and lubricating oil properly labeled in accordance with the provisions of Article 6 (commencing with Section 13450).

13443. The sign or label required by this article to be attached to the inlet end of the fill-pipe of an underground storage tank shall consist of a tag or plate firmly attached or affixed and plainly visible while the tank is being filled. The letters on such sign or label may be of any convenient size.

Article 6. Standards for Diesel Fuel, Kerosene, and Fuel Oils

13450. The Director of Food and Agriculture shall adopt regulations establishing specifications for the following petroleum products: (a) diesel fuel, (b) kerosene, (c) fuel oil. Such specifications may be based on specifications adopted by American Society for Testing and Materials.

It shall be unlawful for any person to sell, offer for sale, or hold for sale any petroleum products for which specifications have been prescribed by the director which fails to conform thereto.

13451. The Director of Food and Agriculture may also adopt regulations governing the labeling of storage containers and accessories thereto and dispensing apparatus for the products mentioned in Section 13450 in general conformity for such requirements for gasoline. It is unlawful to violate such requirements.

Article 7. Standards for Lubricating Oils and Oils Used to Lubricate Transmissions, Gears, or Axles

13460. Any lubricating oil, regardless of its origin, or any product that is a blend of recycled oil and new oil, shall not be sold, offered for sale, delivered, offered for delivery, or stored as an engine lubricant, engine oil, motor oil, or lubricating oil for use in an internal combustion engine unless such product conforms to the following specifications:

(a) It shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the standard test therefor.

(b) The flashpoints for the various Society of Automotive Engineers classifications shall not be less than the following when tested in accordance with the standard method of test for flash and fire points by means of the Cleveland open cup:

Viscosity classification	Viscosity SSU at 210° F.	Minimum flash degrees Fahrenheit
SAE 5W		305
SAE 10W		335
SAE 20W		345
SAE 20		345
SAE 30		355
SAE 40		375
SAE 50		400
Grade 60	110 to less than 125	435
Grade 70	125 to less than 150	470

(c) It shall meet the motor oil requirements established by the Society of Automotive Engineers for engine oil performance and

engine service classification SAE J183 or the latest revision thereof.

(d) Any motor oil or lubricating oil that is represented to meet S.A.E./A.P.I. Service S.A. must have a neutralization number as measured by American Society for Testing and Materials method D-974 of 0.20 maximum.

13461. Any lubricating oil, regardless of its origin, or any product that is a blend of recycled oil and new oil shall not be sold, offered for sale, delivered, offered for delivery, or stored as a product for use in lubricating transmissions, gears, or axles unless such product conforms to the following specifications:

(a) It shall be free from water and contaminants including, but not limited to, harmful abrasives, oxidized oil, and corrosive material when tested in accordance with the standard tests therefor. Contaminants for the purposes of this section shall not include substances added by the manufacturer which could reasonably be expected to improve performance of the product.

(b) The viscosity grade classification number shall be the same as the latest published Society of Automotive Engineers recommended practice when tested in accordance with the latest method published by the American Society for Testing and Materials.

(c) It meets the service requirements contained in the Society of Automotive Engineers information report on axle and manual transmission lubricants SAE J308b.

13462. It is unlawful for any person to sell, offer to sell, deliver, or offer to deliver any engine lubricant, engine oil, lubricating oil, or motor oil unless the S.A.E./A.P.I. service classification is conspicuously marked on each container. On or after January 1, 1979, each container which contains one gallon or less of engine lubricant, engine oil, lubricating oil, or motor oil shall bear a plainly visible statement indicating generally the automobile model years or condition of service for which the engine lubricant, engine oil, lubricating oil, or motor oil is suitable or appropriate for gasoline engines as described in SAE J183 or the latest revision thereof.

Article 8. Price Indications on Petroleum Dispensing Apparatus

13470. No person shall sell at retail to the general public, any motor vehicle fuel from any place of business in this state unless there is displayed on the dispensing apparatus in a conspicuous place at least one sign or price indicator showing the actual total price per gallon or liter of all motor vehicle fuel sold therefrom. The actual total price per gallon, or liter, shall include fuel taxes and all sales taxes.

If motor vehicle fuel is sold by the liter, the word "liter" shall be conspicuously displayed on the side of the dispensing apparatus from which service can be made.

13471. Each sign required by this article shall be placed in a conspicuous place on the dispensing apparatus and if service of gasoline or other motor vehicle fuel may be made from more than

one side of such dispensing apparatus the sign shall be so placed as to be visible from at least two sides of the dispensing apparatus.

13472. When a sign is used in addition to a price indicator as defined in Section 13470, and if the same grade of motor fuel is sold at a different price from any other dispenser on the same premises, it shall be unlawful to display such sign on a dispenser unless a sign with price numerals of equal size is displayed upon each dispenser from which the same grade of motor fuel is dispensed at higher prices.

13473. All letters, figures, or numerals on each sign required by this article, however affixed, marked, imprinted, placed, or embossed, shall be at least three-fourths of an inch in height and all lines or marks used in the making or forming of all such letters, figures, or numerals which are a part of the sign shall be at least one-eighth of an inch in width.

13474. All letters, figures, or numerals which are part of any sign or price indicator required by this article shall be plainly legible. The color or tint shall contrast with the background and other parts of the sign.

13475. For the purpose of this article, a fraction is considered one numeral.

13476. It is unlawful for any person, firm, corporation, or association, or any employee thereof, to make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement relative to price, discount, or saving of any motor vehicle fuel which comes under the provisions of this article, which is false, deceptive, or misleading in any particular and which is known or which by the exercise of reasonable care should be known, to be untrue, false, or misleading.

13477. The provisions of this article do not apply to the sale of motor fuel for aircraft through or from any portable dispensing device.

Article 9. Labeling

13480. (a) It is unlawful for any person to sell any petroleum product referred to in this chapter at any place where petroleum products are kept or stored for sale, unless and until there is firmly attached to or painted upon each container, receptacle, pump, dispenser, and inlet end of the fill-pipe of each underground storage tank, from which or into which such product, is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the name of such product, including in the case of gasoline and diesel fuel the grade or brand name designation, if any, in letters not less than one-half of an inch in height, together with the brand name, trademark, or trade name of such product, which word or words shall also be in letters of not less than one-half of an inch in height.

The viscosity grade classification number shall be determined in accordance with the Society of Automotive Engineers latest recommended practice of crankcase oil or transmission and axle lubricant viscosity classification, and shall be preceded by the letters "S.A.E." Oil used to lubricate transmissions, gears, or axles falling within more than one Society of Automotive Engineers viscosity grade classification shall be labeled to show the grade or grades for which the supplier intends it for use.

(b) Notwithstanding the requirements specified in subdivision (a) for petroleum products, when such product is oil, as defined in Section 13401, each such sign or label shall also have in letters and numerals, plainly visible, the viscosity grade classification.

The minimum size of such letters and numerals shall be:

(1) For containers of one gallon or less, one-quarter inch in height and not less than one-sixteenth inch in width.

(2) For containers greater than one gallon, one-half inch in height.

No person shall sell at retail to the general public, any gasoline from any place of business in this state, unless there is displayed on the dispensing apparatus in a conspicuous place at least one sign showing the minimum octane number or antiknock index, in letters and numerals not less than one-half inch in height, of all gasoline sold therefrom.

As used in this subdivision "octane number" means the octane number or antiknock index number of the gasoline as defined in Section 13403.

The provisions of this section pertaining to "gasoline octane number" and motor oil "S.A.E. viscosity number" shall not apply to products sold for aviation purposes.

Any device or pump used to dispense a mixture or premixture of gasoline and motor oil shall have displayed on such device a sign or label stating in letters or numerals not less than one-half of an inch in height the ratio of gasoline to motor oil, the name of the product, and the brand name.

The provisions of this section shall apply, with respect to thinners or solvents, only to the sale, delivery, or offer for sale of such products through service stations, garages, and other retail outlets.

13481. If any gasoline has no brand, trademark, or trade name, each sign or label required by this article shall consist of the words, in letters of gothic type with a stroke of not less than one-half inch in width, and not less than three inches in height, "gasoline, no brand." Such sign or label shall consist of red letters upon a white background.

13482. If any engine lubricant, engine oil, lubricating oil, or motor oil has no brand, trademark, or trade name, each sign or label required by this article therefor shall consist of the words, in letters of gothic type with a stroke of not less than one-half inch in width, and not less than three inches in height, "engine lubricant, no brand," "engine oil, no brand," "lubricating oil, no brand," "motor

oil, no brand." Such sign shall consist of red letters upon a white background.

13483. The provisions of this article as to size of letters shall not apply to signs or labels at the inlet end of any underground storage tank, which letters may be of any convenient size but such letters shall be plainly visible while such underground storage tank is being filled.

13484. Whenever any pump, receptacle, or other container is maintained or used to serve more than one driveway, the signs or labels required by this chapter shall be placed upon both sides of such pump, receptacle, or other container so that one set of signs or labels shall be clearly visible from each such driveway.

Wherever any pump, receptacle, or other container is maintained or used to serve only one driveway, the signs or labels required by this chapter shall be upon the side of such pump, receptacle, or other container adjacent to such driveway.

13485. Small hand measures used for delivery of petroleum products, and filled in the presence of the customer, need not be labeled in accordance with this chapter if the receptacle, container, or pump from which petroleum products are drawn or poured into such hand measures is properly labeled as required by this chapter.

13486. It is unlawful for any person to deliver, or permit to be delivered, into any tank or container, at any place where petroleum products are sold, any petroleum product referred to in this chapter, other than that indicated by the brand, trademark, trade name, or in the case of oil, as defined in Section 13401, the Society of Automotive Engineers classification number or other viscosity grade classification number displayed on the tank or container or the inlet end of the underground storage tank, except as provided in this chapter.

The provisions of this section shall not be construed to prohibit the delivery of gasoline or diesel fuel into a storage tank labeled with the authorized rebrand as provided in Article 14 (commencing with Section 13560).

13487. Subject to the provisions of this chapter relating to tank vehicles, it is unlawful for any person to attach or connect, or cause or permit to be attached or connected, any pump, container, or other device, used for or in the drawing, pouring, or delivery of any petroleum product referred to in this chapter, and intended for sale, to or with any tank or receptacle containing any petroleum product or any liquid other than the one described on the label, tag, or sign attached or affixed to such pump, container, or other device.

13488. Subject to the provisions of this chapter relating to tank vehicles, it is unlawful for any person in making any sale, to pump, draw, furnish, or deliver, or to cause or permit to be pumped, drawn, furnished, or delivered, by means of, or through, any pump or other device, any product other than the one described on the label, tag, or sign attached or affixed to such pump or other device.

13489. The use of pumps or other devices which are capable of

withdrawing gasoline from each of two tanks containing different qualities of the same petroleum product and dispensing them as a single combined product shall be authorized when the department determines that all of the following conditions exist:

(a) The device mechanism accurately measures the quantities of the gasoline being simultaneously withdrawn from each of the two tanks and the quantity dispensed.

(b) The device mechanism accurately and visibly records and displays the resulting combined quality, the total quantity, the price per gallon or liter for the particular quality combination being dispensed, and the total price of the quantity of gasoline dispensed at the particular sale.

(c) The device has a locking selector mechanism which prevents the changing of the proportion of the two qualities being combined during the dispensing of the desired quantity.

The provisions of this section shall not supersede any other provisions in this chapter, except that they shall supersede the provisions of Sections 13442, 13443, 13480, 13483, 13486, 13487, 13488, and 13580 to the extent necessary to authorize the operation of a blending type of pump connected to two tanks containing two different products, or two different grades of the same product, which, when blended together in different proportions, will produce gasolines of different octane rating, each blend of which shall meet the specifications for gasoline as required by this chapter.

13490. The use of pumps or other devices which are capable of withdrawing gasoline from one tank and motor oil, or a premixture of gasoline and motor oil in a known ratio, from another tank, and dispensing them as a single combined product, or of withdrawing gasoline alone from the tank containing gasoline and of withdrawing a premixture of gasoline and motor oil alone from the tank containing a premixture of gasoline and motor oil shall be authorized when the department determines that all the following conditions exist:

(a) The device mechanism accurately measures the quantities being simultaneously withdrawn for dispensing as a combined product from each of the two tanks when the combined product is dispensed, the quantity being dispensed from the gasoline tank when gasoline alone is dispensed, or the quantity being dispensed from the tank containing a premixture of gasoline and motor oil when the premixture alone is dispensed.

(b) The device mechanism accurately and visibly records and displays: (1) the ratio of gasoline to motor oil or premixture, the quantity of each ingredient being dispensed, the price per gallon or liter for the gasoline being dispensed, and the price per quart or liter for any motor oil or premixture being dispensed or (2) the ratio of gasoline to motor oil or premixture and the price per gallon or liter for the product being dispensed.

(c) The device mechanism prevents the changing of the ratio of gasoline to motor oil or premixture during dispensing.

The provisions of this section shall not supersede any other provisions in this chapter, except that they shall supersede Sections 13442, 13443, 13480, 13483, 13486, 13487, 13488, and 13580 to the extent necessary to authorize the operation of the above-described blending type of pump connected to two tanks, one containing motor oil, or a premixture of motor oil and gasoline in a known ratio, and the other gasoline, provided that the motor oil shall in its separate state meet the specifications for motor oil as required by Section 13460 and that the gasoline shall in its separate state meet the specifications for gasoline as required by Section 13440.

Article 10. Tank Vehicles

13500. It is unlawful for any person to transport in any tank vehicle, for the purpose of sale, or for delivery to any place where petroleum products are kept or stored for sale, any petroleum product referred to in this chapter unless and until there is compliance with either of the following:

(a) There shall be firmly attached to or affixed at each outlet faucet or valve of each such tank vehicle, a metal tag, plate, or label, on which is displayed, in letters not less than one-half inch in height, the name of the particular product in the tank compartment of the tank vehicle with which such valve or faucet is connected and the brand, trademark, or trade name of such product, or the words "no brand," and in the case of engine lubricant, engine oil, lubricating oil, or motor oil, the Society of Automotive Engineers classification shall also be displayed in letters and numerals not less than one-half inch in height.

(b) The tank vehicle shall be equipped with a meter conforming to the provisions of this article relating to meters.

13501. If a tank vehicle is equipped with a meter for the purpose of measuring the quantities of different grades, brands, or trade names of a product withdrawn from more than one compartment, then means shall be provided whereby there will be a clear and easily legible indication of the grade, brand, or trade name of the product which is being measured by the meter.

13502. In the event that a tank vehicle is equipped with a meter or meters for the purpose of measuring the quantity of engine lubricant, engine oil, or motor oil withdrawn from the tank vehicle, no such meter shall be alternately used for the measurement of different grades, brands, or trade names of an engine lubricant, engine oil, or motor oil for delivery at any place of business from which is being sold at retail any petroleum product mentioned in this chapter.

13503. The device used for the indication of grade, brand, or trade name as required by this article shall be so interlocked or interconnected with the valve or other device with which the selection of product is controlled, that any change in position of the controlling or selecting device shall automatically indicate the grade,

brand, or trade name of the product which has been selected for measurement and delivery. Such device shall not permit the flow of products of different grades, brands, or trade names at any given time.

This section shall not prohibit the use of an unloading position on the selecting device or mechanism. Such an unloading position shall be used only when all compartments contain a single grade of a product. It shall be further provided that when there is such a position on the selecting device, adequate means shall be provided to prevent the indicator of the selecting device being placed in the unloading position unless the operator commits a deliberate act such as the removal of a pin or the turn of a valve or some other deliberate act. This device, or position on the selecting mechanism, shall also indicate the grade, brand, or trade name of the product being selected for measurement.

13504. Nothing in this chapter prohibits the use of a single meter, with its accessory devices and without a controlling or selecting mechanism, for the purpose of measuring the contents of one compartment only, or of two or more compartments if, or when, a product of a single grade, brand, or trade name is carried in all such compartments at any one time.

13505. (a) In the event that the compartments of a tank vehicle are connected to a common outlet, no compartment so connected shall contain a product different than the product as contained in any other compartment unless adequate provision is made to avoid intermixture.

(b) In the event that a tank vehicle is equipped with a meter, or meters, for the purpose of measuring the quantity of fluid withdrawn from the tank vehicle, no such meter shall be alternately used for the measurement of different products.

This section does not prohibit transporting two or more grades of gasoline, or of other motor fuel, or of kerosene, or of burner oil, at any one time in all compartments whose contents are to be measured by the one meter.

In the application of this section to deliveries to the fuel tank of any aircraft, it is unlawful to handle gasolines specifically refined or manufactured for the operation of aircraft engines and gasolines not specifically refined or manufactured for the operation of aircraft engines through the same meter.

13506. It is unlawful for any person to operate a tank vehicle equipped with a meter for the purpose of measuring the quantities of products of different grades, brands, or trade names withdrawn from any one or more compartments:

(a) If the quantity contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is greater than four gallons where the meter discharge is designed for two-inch or smaller standard pipe size.

Where the quantity which is contained on the discharge side of the controlling or selecting mechanism is four gallons or less, it is

unlawful to make a delivery of less than 50 gallons to any person who is engaged in the business of selling at retail gasoline or other motor fuel, unless, when such delivery of less than 50 gallons is made, such quantity of gasoline or other motor fuel, other than that which is to be delivered, as may remain from a previous delivery, shall be cleared from the discharge side of the controlling or selecting mechanism.

(b) If the quantity contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is greater than eight gallons where the meter discharge is designed for a standard pipe size in excess of two inches and not greater than two and one-half inches.

Where the quantity which is contained on the discharge side of the controlling or selecting mechanism is more than four gallons and not greater than eight gallons, it is unlawful to make a delivery of less than 100 gallons to any person who is engaged in the business of selling at retail gasoline or other motor fuel, unless, when such delivery of less than 100 gallons is made, such quantity of gasoline or other motor fuel, other than that which is to be delivered, as may remain from a previous delivery, shall be cleared from the discharge side of the controlling or selecting mechanism.

(c) If the quantity contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is greater than 12 gallons where the meter discharge is designed for a standard pipe size in excess of two and one-half inches and less than four inches.

Where the quantity which is contained on the discharge side of the controlling or selecting mechanism is more than eight gallons and not greater than 12 gallons, it is unlawful to make a delivery of less than 150 gallons to any person who is engaged in the business of selling at retail gasoline or other motor fuel, unless, when such delivery of less than 150 gallons is made, such quantity of gasoline or other motor fuel, other than that which is to be delivered, as may remain from a previous delivery, shall be cleared from the discharge side of the controlling or selecting mechanism.

(d) If the quantity contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is greater than 16 gallons where the meter discharge or flow line size upstream of the meter is designed for a standard pipe size of four inches but less than five inches, whichever is greater.

Where the quantity which is contained on the discharge side of the controlling or selecting mechanism is more than 12 gallons, it is unlawful to make a delivery of less than 200 gallons to any person who is engaged in the business of selling at retail gasoline or other motor fuel, unless, when such delivery of less than 200 gallons is made, such quantity of gasoline or other motor fuel, other than that which is to be delivered, as may remain from a previous delivery, shall be cleared from the discharge side of the controlling or selecting mechanism.

(e) If the quantity contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is greater than 20 gallons where the meter discharge or flow line size upstream of the meter is designed for a standard pipe size of five inches but less than six inches, whichever is greater.

Where the quantity on the discharge side of the controlling or selecting mechanism is more than 16 gallons, it is unlawful to make a delivery of less than 250 gallons to any person who is engaged in the business of selling at retail gasoline or other motor fuel, unless, when such delivery of less than 250 gallons is made, such quantity of gasoline or other motor fuel, other than that which is to be delivered, as may remain from a previous delivery, shall be cleared from the discharge side of the controlling or selecting mechanism.

(f) The quantity contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is greater than 24 gallons where the meter discharge or flow line size upstream of the meter is designed for a standard pipe size of six inches or more, whichever is greater.

Where the quantity on the discharge side of the controlling or selecting mechanism is more than 20 gallons, it is unlawful to make a delivery of less than 300 gallons to any person who is engaged in the business of selling at retail gasoline or other motor fuel, unless, when such delivery of less than 300 gallons is made, such quantity of gasoline or other motor fuel, other than that which is to be delivered, as may remain from a previous delivery, shall be cleared from the discharge side of the controlling or selecting mechanism.

13507. If a tank vehicle is equipped to make deliveries through the medium of pump and hose in connection with a meter for the purpose of measuring the quantities of different grades, brands, or trade names of a product from any one or two or more compartments, there shall be no limitation on the quantity of the grade, brand, or trade name of the product which may be contained within the pumps, meter, accessory devices, and hose on the discharge side of the controlling or selecting mechanism, except that the pump and hose shall be cleared of such quantity of the grade, brand, or trade name other than that which is to be delivered as may remain on the discharge side of the controlling or selecting mechanism from a former delivery. The grade, brand, or trade name of the product thus cleared may be returned to its appropriate compartment by means of the pump.

13508. If a single meter with its accessory devices, and without a controlling or selecting mechanism, is used for the purpose of measuring the contents of one compartment only, or of two or more compartments, it is required that if such volume of liquid as may be retained in the meter and its accessory devices on the discharge side of the controlling or selecting mechanism shall exceed four gallons where the meter is designed for a two-inch or smaller standard pipe size, or eight gallons where the meter is designed for a standard pipe size in excess of two inches and not greater than two and one-half

inches, or 12 gallons where the meter is designed for a standard pipe size in excess of two and one-half inches and less than four inches, or 16 gallons where the meter is designed for a standard pipe size of four inches and less than five inches, or 20 gallons where the system piping or meter outlet is five inches and less than six inches, or 24 gallons where the system piping or meter outlet is six inches or larger, the quantity so remaining shall be replaced whenever a change is made in the grade, brand, or trade name of a product which is carried in such compartment or compartments.

13509. Whenever a change is made in the petroleum product carried in any compartment, the entire contents of its discharge piping and devices shall be replaced and the discharge piping and devices flushed with the product intended for delivery.

Article 11. Basis of Settlement

13520. It is unlawful for any distributor or for any broker to sell any product to a retailer or to any person, when the quantity distributed in any single delivery to a single location is 5,000 or more gallons, as, or purporting to be, gasoline or diesel fuel, unless the distributor or broker, as the case may be, offers to invoice the purchaser for such gasoline or diesel fuel on the basis of temperature-corrected gallonage to 60 degrees Fahrenheit for all such deliveries to the purchaser over a period of 12 consecutive months and settles his accounts with the purchaser on the same basis.

Article 12. Price Sign Advertising

13530. (a) Nothing in this article shall be construed to apply to the price signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the net tax-included price per gallon or liter for a particular brand or trade name of gasoline or motor vehicle fuel permitted under the provisions of Article 8 (commencing with Section 13470), unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter for the same brand or trade name of gasoline or other motor vehicle fuel permitted under the provisions of this article.

(b) Nothing in this article shall be construed to apply to the price signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the net tax-included price per gallon or liter and the minimum octane number for a particular brand or trade name of gasoline permitted under the provisions of Article 8 (commencing with Section 13470), unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter and the minimum octane number for the same brand or trade name of gasoline permitted under the provisions of this article.

For purposes of this subdivision "gasoline" does not include

gasoline sold for aviation purposes.

As used in this subdivision "octane number" means the American Society for Testing and Materials octane number of the gasoline as defined by Section 13403.

(c) No person shall keep, maintain, or display on or near the premises of any place of business in this state any advertising medium, which indicates or shows or advertises the price of gasoline or other motor vehicle fuel sold, offered for sale, or advertised for sale, from such premises, unless the actual price per gallon or liter of gasoline or other motor vehicle fuel including taxes is also shown on such advertising medium, together with the word or words "gasoline" or "motor fuel" and the trade name or brand and grade designation of the gasoline or other motor vehicle fuel product advertised for sale by such advertising medium.

The numerals indicating the price on such sign shall be of uniform size and at least six inches in height. All letters or numerals used in designating the brand name or the words "no brand" on such sign shall not be less than one-third the size of the numerals designating the price and the height of such letters or numerals shall not be more than twice the dimension of the width. All letters or numerals used in designating the product, such as "gasoline" or other motor fuel, shall be not less than one-third the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. All letters or numerals on such sign designating the grade of the gasoline or motor fuel shall be not less than one-sixth the size of the numerals designating the price and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. If gasoline or other motor vehicle fuel is sold by the liter and advertised, the word "liter" shall be displayed on such sign in letters not less than one-third the size of the numerals designating the price and the height of such letters shall not be more than twice the dimension of the width.

(d) No person offering for sale or selling any gasoline or motor vehicle fuel from any place of business in the State of California shall post or display a sign or statement or other advertising medium reading, in substance, "save" a designated amount, or a designated amount per gallon or liter, such as "save 5 cents" or "save 5 cents per gallon or liter," or using the expression "off" a designated amount, such as "5 cents off" or "5 cents less," or "discount" of a given amount, such as "5 cents discount," or otherwise using the words "save," "off," "discount," "less," "below," or any of them, or a word or words of similar meaning or other phraseology indicating a reduced price, unless there is posted and displayed in letters and numerals of at least equal size and as part of the same sign, statement, or other advertising medium, the total price, or prices per gallon or liter, including all taxes from which such reduction will be made, the

reduction given, and the total net price per gallon, including all taxes, at which gasoline or other motor vehicle fuel is being sold or offered for sale. Words shall be used to explain the reduced price, the amount of reduction, and the price from which the reduction is made. Such words shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(e) In the event that the same brand or grade of gasoline or motor fuel is sold at different prices from the dispensing devices on the premises of any single place of business, it shall be unlawful for any person to post or display any sign or advertising medium which indicates or shows or advertises a price of such brand or grade unless such sign or advertising medium indicates, shows, or advertises in letters or numerals of equal size each of the higher prices, including all taxes, for which such brand or grade is sold, offered for sale, or advertised for sale and unless such sign or advertising medium explains the conditions under which such brand or grade is advertised for sale, at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

The provisions of this section relating to the posting of octane numbers shall not be operative unless and until the Federal Trade Commission or any federal governmental agency adopts regulations relating to posting of octane numbers, in which case the provisions of this section shall become operative at the time designated in such regulations.

13531. Nothing in this chapter, nor in this code, is intended to require or requires that the cash or merchandise value of trading stamps be stated or set forth on any sign, statement, or other advertising media which either advertises or offers such stamps, or advertises or indicates the price of gasoline or motor fuel, whether on any dispensing apparatus or elsewhere, and which is displayed at or about any place of business offering for sale or selling gasoline or other motor vehicle fuel.

13532. If gasoline or other motor vehicle fuel is offered for sale or advertised for sale from the premises of any place of business in this state, but not under any trade name or brand name, then the words "no brand" shall be used and designated on the advertising medium.

13533. Except as provided in subdivisions (d) and (e) of Section 13530 the advertising medium referred to in this article shall not contain any other advertising matter whatsoever, except (1) words of description of the products sold or offered for sale, and (2) method of sale, such as "self serve," "full serve," or words of similar meaning. Any letters, figures, or numerals used on the advertising medium as permitted by (1) shall not be larger than the words, letters, figures, or numerals used to indicate the price per gallon or liter on the sign. Any letters, figures, or numerals used on the advertising medium as permitted by (2) shall not be less than one-third the size of the words, letters, figures, or numerals used to indicate the price per gallon or liter on the sign.

13534. For the purpose of this article, fractions are considered one numeral.

13535. The numeral one or the letter "*l*" need not conform to specifications prescribed for other letters, words, figures, or numerals by this article but all letters, words, figures, or numerals shall be of the same type and design and shall be uniform with other letters, words, figures, or numerals with which they are used.

13536. All letters, words, figures, or numerals which are a part of the signs, statements, or other advertising media referred to in this article shall have a medium or heavy typeface or stroke, shall be plainly visible, and of such colors or tints as will contrast such letters, words, figures, or numerals with the remaining parts of such signs, statements, or other advertising media.

13537. All words, letters, figures, or numerals designating or indicating the price of gasoline or other motor vehicle fuel so offered for sale shall be of like color or tint, and all letters used in the word "gasoline" or the words "motor fuel" shall be of like color or tint and all letters used in the unit of measure shall be of like color or tint.

13538. No advertising medium shall be placed on the premises of any place of business in this state in such a manner or in such a position to another advertising medium as will render the advertising medium advertising gasoline or other motor vehicle fuel offered for sale susceptible of being read in conjunction with any other advertising medium, if any person so reading from any public street, or highway may be misled.

13539. It is unlawful to place letters, words, figures, or numerals on any advertising medium located or maintained on the premises of any place of business in this state advertising or offering for sale any goods, wares, or merchandise, other than gasoline or other motor vehicle fuel, which advertising medium may be construed by any reasonable person as advertising or offering for sale gasoline or other motor vehicle fuel.

13540. No person shall keep, maintain, or display on the premises or near any place of business in this state any advertising medium which indicates or shows or advertises the price of "engine lubricant," "engine oil," "motor oil," or "lubricating oil" offered for sale or advertised for sale from such premises without clearly and conspicuously showing on the same advertising medium where such price is advertised, the trade name or brand name of the particular "engine lubricant," "engine oil," "motor oil," or "lubricating oil," the price of which is so advertised, together with the words "engine lubricant," "engine oil," "motor oil," or "lubricating oil." If such "engine lubricant," "engine oil," "motor oil," or "lubricating oil" has no brand name or trade name, then the words "no brand" shall be displayed in connection with the designation of the product.

13541. (a) All letters, figures, or numerals used in designating the brand name or the words "no brand" which are part of any advertising medium indicating, showing, or advertising the price of "engine lubricant," "engine oil," "lubricating oil," or "motor oil"

shall be of uniform size, type, and design and may be of any convenient height, except that the height shall not be more than twice the dimension of the width of each such letter, figure, or numeral.

(b) All letters used in designating the words "engine lubricant," "engine oil," "motor oil," or "lubricating oil" which are part of any advertising medium indicating, showing, or advertising the price of "engine lubricant," "engine oil," "lubricating oil," or "motor oil" shall be of uniform size, type, and design and shall not be less than one-half the size nor greater than the size, either in height or width, of any letters, figures, or numerals designating the brand name of the engine lubricant, engine oil, motor oil, or lubricating oil being advertised.

(c) All letters, words, figures, or numerals used for the purpose of indicating the price of "engine lubricant," "engine oil," "motor oil," or "lubricating oil" shall be uniform in size and shall not be more than twice the size of the letters, figures, or numerals used for the purpose of designating the brand name or the words "no brand."

(d) All letters, figures, or numerals used for designating the brand name or the words "no brand" when used as a part of any advertising medium indicating, showing, or advertising the price of "engine lubricant," "engine oil," "motor oil," or "lubricating oil" shall be of like color or tint.

(e) All letters, figures, or numerals used for designating the price of "engine lubricant," "engine oil," "motor oil," or "lubricating oil" shall be of like color or tint.

(f) All letters used in designating the words "engine lubricant," "engine oil," "motor oil," or "lubricating oil," when used as a part of any advertising medium indicating, showing, or advertising the price of "engine lubricant," "engine oil," "motor oil," or "lubricating oil" shall be of like color or tint.

(g) All such color or tint shall contrast with the background and other parts of such advertising medium.

13542. It is unlawful for any person engaged in the business of selling at retail any gasoline or other motor fuel or any distillate, or kerosene, or any engine lubricant, engine oil, lubricating or motor oil for internal combustion engines, to display any sign or other designating mark at or near the place of business of such person describing or designating a brand, trademark, or trade name or the words "no brand" of a gasoline or other motor fuel, distillate, kerosene, or engine lubricant, engine oil, lubricating or motor oil for internal combustion engines, not actually sold or offered for sale or delivery at such place of business.

13543. If a petroleum product is offered for sale or advertised for sale as gasoline or motor fuel, no numerals shall be used in connection with the trade name or the brand name, or the words "no brand," or in connection with the merits of the product, unless such numerals relate to the actual octane rating of the fuel. Nothing in this section prohibits:

(a) The use of numerals to indicate the price of the product.

(b) The use of numerals when the octane rating of the gasoline exceeds such numerals.

(c) The use of any numeral or combination thereof in such a manner that it cannot reasonably be confused with the octane rating of the product.

"Petroleum product," as used in this section, does not include any product which is sold for the use of generation of power in an airplane.

13544. It is unlawful for any person, firm, corporation, or association, or any employee thereof, to make or disseminate or cause to be made or disseminated before the public in this state, from either upon or off the premises of such person, firm, corporation, or association, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement relative to quality, quantity, performance, price, discount, or saving used in the sale or selling of any commodity which comes under the provisions of this chapter which is, or which could reasonably be construed as being, false, deceptive, or misleading in any particular and which is known, or which by the exercise of reasonable care should be known, to be untrue, false, or misleading.

Article 13. Inducements for the Sale of Gasoline or Motor Fuel

13550. No petroleum corporation or distributor shall compel or unduly or unreasonably influence any retail gasoline dealer to participate in the giveaway or offer to give away free of charge any item of value, including trading stamps or any kind of merchandise or goods, whether or not such giveaway is conditional upon the purchase of gasoline, motor fuel, or petroleum products. The decision to participate in such giveaways shall be solely that of the retail gasoline dealer. Nothing in this section shall prohibit a retail gasoline dealer from entering into an agreement to participate in any such giveaway program.

Article 14. Passing Off

13560. (a) It is unlawful for any person to sell, attempt to sell, offer for sale, or participate or assist in the sale of any gasoline, liquefied petroleum gas, distillate, kerosene, or other motor fuel, or engine lubricant, engine oil, lubricating oil, or motor oil of any kind or quality whatever for use in internal combustion engines when the petroleum product is, at the time it is sold, offered for sale, or caused or attempted to be sold, falsely represented to the purchaser or intended purchaser thereof, either verbally or by advertising labels, signs, or literature, as the product of any manufacturer, refiner, producer, or importer other than the true manufacturer, refiner, producer, or importer.

(b) It is unlawful for any person to sell, attempt to sell, offer for sale, or participate or assist in the sale of any gasoline, liquefied petroleum gas, distillate, kerosene, or other motor fuel, or engine lubricant, engine oil, motor oil, or lubricating oil of any kind or quality whatever for use in internal combustion engines when the petroleum product is, at the time it is sold, offered for sale, or caused or attempted to be sold, falsely represented to the purchaser or intended purchaser thereof, to be the product of the brand name or trade name specified by the purchaser or intended purchaser. It is unlawful to sell, offer for sale, or attempt to sell to a purchaser or intended purchaser an engine lubricant, engine oil, motor oil, or lubricating oil with a Society of Automotive Engineers number classification other than the Society of Automotive Engineers number classification as specified by the purchaser or intended purchaser.

(c) It is unlawful for any person to permit, direct, or cause any other person to do any of the acts prohibited by this section.

13561. This article does not prohibit any person from selling under his or her own trademarks, trade names, brands, or the words "no brand," the product of any manufacturer if such person has first obtained the written authorization of the true manufacturer so to sell such product.

13562. No person other than the true manufacturer who purchases any petroleum product shall change the designation under which the product is purchased by him or her, without a written authorization.

13563. The written authorizations required by this article shall be obtained prior to the displaying, handling, marketing, transporting, selling, advertising for sale, or otherwise dealing in any of the products covered by such authorizations.

13564. The written authorizations required by this article shall contain all of the following:

(a) A reference by appropriate and adequate designation to a written contract covering the sale of, the petroleum products, if any.

(b) The quantity of such products sold or to be delivered, under such contract, if specified.

(c) The name of the true manufacturer.

(d) The vendor's name and the vendee's name.

(e) The trademarks, trade name, or brand under which such products are authorized to be sold.

13565. The written authorizations required by this article shall be kept in the form prescribed by the department and shall contain in addition to the data specifically required by this article, such other pertinent data and information as the department may deem necessary for the enforcement of this chapter.

13566. The written authorizations required by this article shall be kept at the main office in this state of both the manufacturer who has authorized the resale of the products referred to in this article under a particular trademark, trade name, brand, or the words "no brand"

and the person who owns the particular trademark, trade name, or brand under which such products have been authorized to be sold, or who sells the products under the words "no brand."

13567. The written authorizations required by this article shall be available for inspection during business hours by the duly authorized representatives of the department.

13568. Copies of the written authorizations required by this article shall be furnished the department upon request.

13569. It is unlawful for any person to fail to keep in the form prescribed, or to forge or falsify, any records or authorizations provided for in this article, or knowingly to keep, use, or display any such false or forged records.

Article 15. Adulteration

13580. It is unlawful for any person to mix or adulterate any gasoline or other motor fuel, distillate, kerosene, or engine lubricant, engine oil, lubricating or motor oil, or fraudulently to sell or offer for sale or attempt to sell or assist in the sale of, any of the products resulting from such mixture or adulteration as the gasoline or other motor fuel distillate, kerosene, or engine lubricant, engine oil, lubricating or motor oil, of a brand, trademark, or trade name, maintained and in general use by the manufacturer, refiner, producer, or marketer of either or both of the products so mixed or adulterated or by any other manufacturer, refiner, producer, or marketer.

This section applies to deliveries by tank vehicle, subject to the provisions of Article 10 (commencing with Section 13500).

13581. It is unlawful for any person to place, store, or keep, or cause or permit to be placed, stored, or kept, for the purpose of sale, any petroleum product in any storage tank, underground or otherwise, or container or receptacle which contains or has previously contained a different product, or the product of a different manufacturer, refiner, producer, or marketer unless and until such tank, container, or receptacle has first been emptied and relabeled in accordance with this chapter.

Article 16. Enforcement

13590. It is the duty of the department acting through the Division of Measurement Standards to enforce the provisions of this chapter, and to appoint and employ such inspectors as may be necessary therefor.

13591. The department, its inspectors, and each sealer, are hereby authorized and empowered to inspect the petroleum products referred to in this chapter and to enter, for the purpose of such inspection, any place where petroleum products are kept or stored for sale.

All such officers shall enforce the provisions of this chapter.

13592. The department, each sealer, and any person now or hereafter authorized or empowered by law to inspect the petroleum products referred to in this chapter, may take such sample or samples as may be necessary of any petroleum or petroleum product kept or stored for the purpose of sale.

13593. It is unlawful for any person, or any member, officer, agent, or employee of a firm, association, or corporation, to refuse to permit any person authorized by this article to take such sample or samples permitted by this chapter, or to prevent or to attempt to prevent the taking of such sample or samples.

13594. If the owner or person in possession of the product of which a sample is taken under this article shall at the time of the taking, demand payment for the commodity taken, then the person taking the sample shall pay therefor the reasonable market price.

13595. (a) The department, each county sealer and deputy county sealer, each sealer and deputy sealer of each incorporated city, and any person now or hereafter authorized by law to inspect the petroleum products referred to in this chapter, may close and seal outlets and inlets of any unlabeled or mislabled receptacles, containers, pumps, or storage tanks connected thereto, containing any petroleum product which is sold, offered for sale, stored, or delivered as, or which is, any petroleum product specifically mentioned, defined, or described in this chapter.

The person so sealing shall post in a conspicuous place on the premises, where such receptacle, container, pump, or storage tank connected thereto has been sealed, a notice stating that the action of sealing has been taken in accordance with the provisions of this chapter, and giving warning that it is unlawful to break, mutilate, or destroy the seal or seals thereof, or to move the container, or remove the contents therefrom, under the penalty provided in this division.

(b) Whenever a container or lot of containers of any commodity mentioned in this chapter is found to contain a commodity not in conformity with the provisions of this chapter, the representative may take a sample or samples reasonably necessary for enforcement purposes. Any lot or container ordered off sale pursuant to this section shall be subject to a disposal order by the enforcing officer and shall not be sold, offered for sale, or transported except in accordance with such disposal order. Any action pursuant to this section shall not affect any rights of a retailer under a warranty of merchantability or warranty of fitness.

13596. Upon at least 24 hours' written notice from the owner, manager, or operator of the container, receptacle, pump, or storage tank which has been sealed, to the department or to the sealer of the county in which the premises are situated stating that the contents of such container, receptacle, pump, or storage tank will be removed or that such container, receptacle, pump, or storage tank or inlet end of the fill-pipe thereof will be properly labeled as provided in this chapter, at a specified time, between the hours of 9 a.m. and 4 p.m. of a day specified in the notice, other than a holiday, such officer

shall, at the time specified, break the seal or seals for the purpose of permitting the removal by such manager, owner, or operator, of the contents of such container, receptacle, pump, or storage tank connected thereto, or the use thereof after proper labeling.

The removal of contents or proper labeling of the container, receptacle, pump, storage tank, or inlet end of the fill-pipe thereof, as the case may be, shall be made at the time specified and in the presence of the officer removing the seal.

13597. If for any reason at the time specified in the written notice the contents are not removed, or the container, receptacle, pump, storage tank, or inlet end of the fill-pipe thereof is not properly labeled, then the container, receptacle, pump, or storage tank connected thereto and the inlet end of the fill-pipe of such storage tank shall be again sealed as provided in this article and the contents may not thereafter be removed or the container, receptacle, pump, or storage tank connected thereto, or inlet end of the fill-pipe thereof, be again used, except upon the giving of a new notice and proper labeling.

13598. Upon removal of the contents or proper labeling as provided in this article, the notice previously posted shall be removed and the container, receptacle, pump, or storage tank may be restored to lawful use.

13599. No container, receptacle, pump, or storage tank connected thereto, or the inlet end of the fill-pipe of such storage tank, shall, however, be relabeled by the owner, manager, or operator, whether under the provisions of this article or otherwise, without first removing from such container, receptacle, pump, or storage tank connected thereto, or the inlet end of the fill-pipe thereof, all distinctive colors, brands, trademarks, or trade names thereon of any manufacturer, refiner, producer, distributor, or marketer, indicative of any product not actually contained therein and sold therefrom.

13600. It is unlawful for any person, or any member, officer, agent, or employee of a firm, association, or corporation, other than the department or any of the officers mentioned in this article, to break, mutilate, or destroy any seal or seals placed upon a container, receptacle, pump, or storage tank connected thereto, or any other storage tank containing a petroleum product, when placed thereon as provided by this article, or to move a container so sealed, or remove the contents therefrom, or to cover, deface, or remove the notice of sealing required by this article.

Article 17. Penalties

13610. Each person is guilty of a separate offense for each day during any portion of which any violation of this chapter is committed, continued, or permitted by such person, and such person shall be punishable therefor as provided in this division.

13611. The department or any sealer may bring an action to

enjoin the violation or the threatened violation of any provision of this chapter or of any regulation made pertaining to the provisions of this chapter. The action may be brought in the county in which such violation occurs or is about to occur. There may be enjoined in one proceeding any number of defendants alleged to be violating the same provisions or regulations, although their properties, interests, residences, or places of business may be in several counties and the violations separate and distinct. Any proceeding brought pursuant to this section shall be governed in all other respects by the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

Article 18. Disposition and Use of Moneys

13620. Any moneys in the Department of Food and Agriculture Fund derived under any of the provisions of Chapters 14 (commencing with Section 13400), 15 (commencing with Section 13700), 16 (commencing with Section 13800), and 17 (commencing with Section 13900) may be expended for the administration and enforcement of any or all of the provisions of such chapters, notwithstanding any other provision of law limiting the expenditure of any such moneys to the specific purposes or to the administration or enforcement of each of the chapters separately.

SEC. 5.1. Section 13411 is added to the Business and Professions Code, to read:

13411. (a) Except as specified in subdivision (b), it is unlawful for any person to sell or offer to sell petroleum products for use in any vehicle, as the term vehicle is defined by the Vehicle Code, on the condition that the purchaser also must purchase or pay for any other products, merchandise, or services.

(b) Notwithstanding subdivision (a), a person who operates a carwash facility may sell or offer to sell petroleum products for use in a vehicle on the condition that the purchaser also must purchase carwash services, provided that:

(1) The carwash facility, during the base period, as a normal business practice sold gasoline or other motor fuels only to customers who purchased carwash services;

(2) The retail price for carwash services charged by the facility during any given month does not exceed the retail price for carwash services charged by the facility during the last month of the base period except by an amount equivalent to that which is produced by multiplying the retail price charged for carwash services during the last month of the base period by the percentage by which the figure representing the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations has increased in the period beginning with the last month of the base period and ending with the given month;

(3) The carwash facility sells or offers to sell in conjunction with the carwash services not less than 10 gallons of gasoline with each

purchase of such carwash services; and

(4) The carwash facility when conditioning the sale of gasoline upon the purchase of carwash services posts in a conspicuous manner as close to the entrance to the facility as is permitted by local ordinance a sign in letters not less than six inches in height which effectively states that the purchaser must purchase carwash services in order to purchase gasoline.

(c) For the purposes of this section, the following terms shall have the following meanings:

(1) "Base period" refers to either the year of 1977, 1978, or 1979, whichever year is selected by the current operator of a carwash facility subject to this section. Once the operator of a carwash facility has selected one of these years as a base period the operator or any subsequent purchaser of the facility may utilize no other year as a base period for the purposes of this section. If the carwash facility was not in operation during 1977, 1978, or 1979, the base period shall be the first full calendar year in which the facility is in operation.

(2) "Carwash facility" means a facility which, during the base period, sold or offered to sell carwash services and at the same time and location sold or offered to sell gasoline.

(3) "Carwash services" means the cleaning of the exterior of a vehicle, by means of mechanical devices or mechanical devices and individuals, alone or in conjunction with the cleaning of the interior of a vehicle.

(4) "Practice" means a repeated or customary action as verified by business records or other admissible evidence.

(d) In any civil action brought pursuant to Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of this code for a violation of this section by a person who operates a carwash facility or his or her employees or agents, the person who operates the carwash facility shall have the burden of proof with respect to establishing compliance with the provisions of this section.

(e) Any person who elects to operate a carwash facility pursuant to subdivision (b) shall maintain records to substantiate that the person has complied with the provisions of paragraphs (1), (2), and (3) of subdivision (b) and shall permit the district attorney of the county in which the carwash facility is located and any authorized representative of a governmental agency which is authorized under state law to enforce the provisions of this section to inspect such records during normal business hours.

(f) Notwithstanding the provisions of Section 13590, the district attorney of each county shall enforce the provisions of this section.

(g) The provisions of this section shall apply only during periods when the maximum retail price which may be charged for gasoline sold by any person in this state is established by the federal or state government, or any department, agency, board, or other entity thereof.

SEC. 5.2. Section 13431 is added to the Business and Professions Code, to read:

13431. The following persons shall pay to the director a maximum fee of two cents ($0.02) for each gallon of motor oil sold or purchased on or after July 1, 1980, as hereinafter provided:

(a) The first person who produced the motor oil shall pay the fee when the motor oil is sold to any retail establishment or motor oil dealer including any sold to the federal government, or its agencies.

(b) A retailer shall pay the fee for motor oil received when he or she transports or causes to be transported motor oil into this state from out of state.

(c) On any other sale of motor oil the dealer shall pay the fee except that this subdivision shall not apply to any person selling motor oil at retail.

(d) The assessment provided for in this section shall only be paid once on any particular motor oil.

The provisions of this section shall not apply to motor oil exported for sale outside this state.

SEC. 5.3. Section 13470.5 is added to the Business and Professions Code, to read:

13470.5. Any person selling, offering for sale, or advertising for sale, at retail to the general public, any gasoline or other motor vehicle fuel from any place of business in this state by use of or through or from any dispensing apparatus and displaying any sign showing the actual total price per liter, shall, in addition, display in a conspicuous fashion in full view of the retail purchaser and in accordance with provisions of this chapter, a gallon-to-liter conversion table showing quantity and price equivalents.

SEC. 6. Chapter 15 (commencing with Section 13700) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 15. ANTIFREEZE

13700. (a) "Antifreeze," as used in this chapter, means any substance or preparation intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.

(b) "Coolant," as used in this chapter, means any substance or preparation intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to raise the boiling point of the cooling liquid or any substance or preparation which is labeled to indicate or imply that it will prevent engine overheating, by its use in the cooling system of an internal combustion engine.

13701. "Labeling," as used in this chapter, includes all written, printed, or graphic representations, in any form whatsoever, imprinted upon or affixed to any container of antifreeze or coolant or accompanying any antifreeze or coolant.

13702. "Permit year," as used in this chapter, means a period of 12 months commencing July 1st and ending on the next succeeding

June 30th.

13703. As used in this chapter "package" means any receptacle in which an antifreeze or coolant is immediately contained when sold, but does not mean a carton or wrapping in which a number of such receptacles are shipped or stored or a tank car or truck.

13704. An antifreeze or coolant is adulterated if (1) it consists in whole or in part of any substance which renders it injurious to the cooling system of an internal combustion engine; or (2) it makes the operation of the engine dangerous to the user; or (3) its strength, quality, or purity falls below the standard of strength, quality, or purity under which it is sold.

13705. (a) An antifreeze is misbranded if (1) its labeling is false or misleading in any particular; or (2) the package does not bear a label on which is printed the name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure, and these facts are not stated plainly and correctly on the outside of the package; or (3) the product is to be diluted with another substance for use and does not bear on the label, or in an accompanying instruction sheet, folder, or booklet, a statement or chart showing appropriate amounts of each substance in terms of liquid measure to be used to provide protection from freezing at various degrees of temperature down to at least 30 degrees below zero Fahrenheit.

(b) A coolant is misbranded if (1) its labeling is false or misleading in any particular; or (2) the package does not bear a label on which is printed the name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure, and these facts are not stated plainly and correctly on the outside of the package; or (3) the product is to be diluted with another substance for use and does not bear on the label a statement showing that a 50 percent mixture of the coolant and water will raise the boiling point of the mixture to at least 224 degrees Fahrenheit at atmospheric pressure, or (4) the product is to be used full strength and does not bear on the label a statement showing that the product has a boiling point of at least 224 degrees Fahrenheit at atmospheric pressure.

(c) The director may, by regulation, exempt specific products from the requirements of paragraphs (3) and (4) of subdivision (b) if they meet all other requirements of this section and any regulations pertaining thereto and if it can be proven to the satisfaction of the director by the person requesting the exemption that the product fulfills the purpose for which it is manufactured, distributed, and sold.

13706. It is unlawful to sell or distribute any antifreeze or coolant, except any antifreeze or coolant which has been registered under this chapter by another, without first applying to the department for registration of such antifreeze or coolant to be handled by the

applicant, and receiving from the department a written permit authorizing the sale of such antifreeze or coolant in this state during the period and under the condition stated in Section 13707.

13707. (a) Application for registration shall be accompanied by a sample of each brand or composition of antifreeze, antifreeze and coolant, or coolant to be registered, together with the labeling to be used therewith, and a fee of one hundred dollars ($100) for each sample submitted. The department shall inspect the sample and labeling and, if the sample is found not to be adulterated or misbranded, shall issue to the applicant a certificate of registration and a permit authorizing the wholesale and retail sale and distribution of the antifreeze, antifreeze and coolant, or coolant in this state during the permit year specified in the permit and, unless such permit shall be renewed by application to the department on or before the last day of the permit year, authorizing the sale at retail only by any retail dealer during the next succeeding permit year of such quantities of the antifreeze, antifreeze and coolant, or coolant as were actually within this state and purchased by and in possession of such retail dealer during the preceding permit year. Such permit may be renewed each permit year without further registration by application to the department, accompanied by a renewal fee of fifty dollars ($50), on or before June 30th immediately preceding the permit year for which the permit is issued. To any fee not paid when due, there shall accrue and be added a penalty of twenty-five dollars ($25).

(b) Any substance or preparation sold for use as both antifreeze and coolant and so labeled shall require but one registration and one fee.

13708. The director may cancel the registration and permit, or may refuse to register any antifreeze, antifreeze and coolant, or coolant, or to renew any permit, after hearing, if he finds that the antifreeze, antifreeze and coolant, or coolant sold or distributed does not correspond to the sample which accompanied the application for registration, or that the antifreeze, antifreeze and coolant, or coolant is adulterated or misbranded, or that the registrant has failed to comply with the provisions of this chapter or the rules and regulations of the department. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted therein.

13709. The department, and each county sealer acting under the supervision and direction of the department, shall enforce the provisions of this chapter, and may sample, inspect, analyze, and test any antifreeze or coolant manufactured, packed, sold, or distributed within this state. The department through its agents shall have free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale, or transportation of antifreeze or coolant, and may by legal means open any box, carton, parcel, or container of

antifreeze or coolant and take therefrom samples for analysis or for evidence.

13710. The department upon request may furnish a list of the brands and trademarks of antifreeze or coolant registered by the department. No labeling relating to any antifreeze or coolant shall contain any statement that the antifreeze or coolant has been approved by the department, but a statement that the antifreeze or coolant has been registered by the department may be included in such labeling.

13711. All fees collected under the provisions of this chapter shall be credited to the Department of Food and Agriculture Fund to be used in carrying out the provisions of this chapter.

13712. It is unlawful to sell or distribute any antifreeze or coolant which is adulterated or misbranded, or which is not registered, or without a valid permit as required by this chapter.

SEC. 7. Chapter 16 (commencing with Section 13800) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 16. BRAKE FLUID

Article 1. General Provisions

13800. "Brake fluid," as used in this chapter, means the fluid intended for use as the liquid medium through which force is transmitted in the hydraulic brake system of a vehicle operated upon the highways.

13801. "Labeling," as used in this chapter, includes all written, printed, or graphic representations, in any form whatsoever, imprinted upon or affixed to any container of brake fluid or accompanying any brake fluid.

13802. "Container," as used in this chapter, means any receptacle in which brake fluid is immediately contained when sold, or any receptacle or device used to store or dispense brake fluid, but does not mean a carton or wrapping in which a number of such receptacles are shipped or stored or a tank car or truck.

13803. "Permit year," as used in this chapter, means a period of 12 months commencing January 1st and ending on the next succeeding December 31st.

Article 2. Registration

13810. It is unlawful to sell or distribute any brand and each formulation of a brand of brake fluid, except any brand and each formulation of a brand of brake fluid which has been registered under this chapter by another, without first applying to the department for registration of such brand and each formulation of a brand of brake fluid to be handled by the applicant, and receiving from the department a written permit authorizing the sale of such brake fluid in this state during the period and under the condition

stated in Section 13811.

13811. Application for registration of each brand and each formulation of a brand of brake fluid shall be made on forms to be supplied by the department. Each applicant shall state the name and address of the applicant, the brand name, and shall certify that the brake fluid to be sold under such brand name conforms to the specifications established by the department for brake fluids. Upon receipt of the application and upon finding that such brake fluid conforms to such specifications, the department shall issue to the applicant a permit authorizing the wholesale and retail sale and distribution of the brake fluid in this state during the permit year specified in the permit and, unless such permit shall be renewed by application to the department on or before the last day of the permit year, authorizing the sale at retail only by any retail dealer during the next succeeding permit year of such quantities of the brake fluid as were actually within this state and purchased by and in possession of such retail dealer during the preceding permit year. Each applicant shall pay a fee of one hundred dollars ($100) with each application. A permit may be renewed by application to the department accompanied by a renewal fee of fifty dollars ($50) on or before December 31st, immediately preceding the permit year for which the permit is issued. To any fee not paid when due, there shall accrue and be added a penalty of twenty-five dollars ($25).

13812. The department may cancel, refuse to issue, or refuse to renew any permit, if it finds, after due notice and a hearing, that the brake fluid is adulterated or misbranded, or that the registrant has failed to comply with the provisions of this chapter or the rules and regulations of the department. No permit shall be issued or renewed where the applicant or registrant has sold or furnished adulterated or misbranded brake fluid which has been confiscated and impounded pursuant to Section 13831, unless satisfactory proof is furnished to the department showing restitution has been made to all persons suffering a loss due to the confiscating and impounding of such brake fluid. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted therein.

Article 3. Adulteration and Misbranding

13820. Any brake fluid is adulterated if its quality or characteristics fall below the specifications for brake fluid established by the department as minimum standards.

The department shall establish specifications for brake fluid which shall promote the public safety in the operation of automotive vehicles and may amend such specifications by regulation, after a hearing, but in no event shall the specifications for brake fluid fall below the minimum specifications established by the National Highway Traffic Safety Administration, United States Department of

Transportation, for such fluid in the Code of Federal Regulations.

13821. Brake fluid shall be deemed to be misbranded if:

(a) The container does not bear a label which conforms to the requirements of the National Highway Traffic Safety Administration, United States Department of Transportation, published in the Code of Federal Regulations and upon which is printed the brand name.

(b) The container does not bear an accurate statement of the quantity of the contents in terms of liquid measure.

(c) The labeling on the container is false or misleading in any particular.

The words and letters required by this section shall appear on the label in legible type.

13822. Each brake fluid container with a capacity of six fluid ounces or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. The container closure shall include a tamperproof feature that will either be destroyed or substantially altered when the container closure is initially opened.

13823. A brake fluid receptacle or dispensing device, including "bleeders," pressurized containers, or any container used to fill a brake system or to expel air from such system after servicing, shall be exempt from the container labeling requirements in this chapter except for the following:

(a) A distinctive brand name in which the smallest letter shall not be less than one-fourth inch in height.

(b) Designation of the contents as "DOT—Motor Vehicle Brake Fluid" with appropriate number filled in. The smallest letter and numeral shall not be less than one-eighth inch in height.

Article 4. Enforcement of the Chapter

13830. The department, and each county sealer acting under the supervision and direction of the department, shall enforce the provisions of this chapter, and may sample, inspect, analyze, and test any brake fluid manufactured, packed, stored, sold, or distributed within this state. The department through its agents shall have free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale, or transportation of brake fluid, and may by legal means open any box, carton, parcel, or container of brake fluid and take therefrom samples for analysis or for evidence.

13831. Any enforcing officer is authorized to confiscate and impound any adulterated or misbranded brake fluid until such time as a court of competent jurisdiction shall order and direct the final disposition of the confiscated product. Such confiscation or impoundment shall not affect any rights of a retailer under a warranty of merchantability or a warranty of fitness.

13832. The department upon request may furnish a list of the brands and trademarks of brake fluid registered by the department.

No labeling relating to any brake fluid shall contain any statement that the brake fluid has been approved by the department, but a statement that the brake fluid has been registered by the department may be included in such labeling.

13833. All fees collected under the provisions of this chapter shall be credited to the Department of Food and Agriculture Fund.

Article 5. Penalties

13840. It is unlawful to sell or distribute any brake fluid which is adulterated or misbranded, or which is not registered, or without a valid permit as required by this chapter.

SEC. 8. Chapter 17 (commencing with Section 13900) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 17. AUTOMATIC TRANSMISSION FLUID

Article 1. General Provisions

13900. (a) "Automatic transmission fluid," as used in this chapter, means a product intended for use in a passenger vehicle other than a bus as either a lubricant, coolant, or liquid medium in any type of fluid automatic transmission, or any other type of unit through which or by which, force, energy, or power is transferred from a motor vehicle engine by hydraulic means to the driving assembly.

(b) Any material offered for sale or sold as an additive to automatic transmission fluids shall be compatible with the automatic transmission fluid to which it is added, and the resulting mixture shall not fall below the minimum specifications for automatic transmission fluids, as established by the Department of Food and Agriculture.

13901. "Labeling," as used in this chapter, includes all written, printed, or graphic representations, in any form whatsoever, imprinted upon or affixed to any container of automatic transmission fluid or accompanying any automatic transmission fluid.

13902. "Container," as used in this chapter, means any receptacle in which automatic transmission fluid is immediately contained when sold, but does not mean a carton or wrapping in which a number of such receptacles are shipped or stored or a tank car or truck.

13903. "Permit year," as used in this chapter, means a period of 12 months, commencing January 1st and ending on the next succeeding December 31st.

Article 2. Registration

13910. It is unlawful to sell or distribute any brand and each formulation of a brand of automatic transmission fluid, except any brand and each formulation of a brand of automatic transmission

fluid which has been registered under this chapter by another, without first applying to the department for registration of such automatic transmission fluid to be handled by the applicant, and receiving from the department a written permit authorizing the sale of such automatic transmission fluid in this state during the period and under the condition stated in Section 13911. Registration and the receipt of a written permit under this section shall not be required with respect to any automatic transmission fluid which has been certified as qualified by a testing laboratory approved by the department. A fee of one hundred dollars ($100) shall be paid to the department at the time such certification is received, and thereafter on or before January 1 of each year a fee of fifty dollars ($50) shall be paid to the department. To any fee not paid when due, there shall be added a penalty of twenty-five dollars ($25).

13911. Application for registration of each brand and each formulation of a brand of automatic transmission fluid shall be made on forms to be supplied by the department. Each applicant shall state the name and address of the applicant, the brand name, and shall certify that the automatic transmission fluid to be sold under such brand name conforms to the specifications established by the department for automatic transmission fluid. Upon receipt of the application and upon finding that such automatic transmission fluid conforms to such specifications, the department shall issue to the applicant a permit authorizing the wholesale and retail sale and distribution of the automatic transmission fluid in this state during the permit year specified in the permit and, unless such permit shall be renewed by application to the department on or before the last day of the permit year, authorizing the sale at retail only by any retail dealer during the next succeeding permit year of such quantities of the automatic transmission fluid as were actually within this state and purchased by and in possession of such retail dealer during the preceding permit year. Each applicant shall pay a fee of one hundred dollars ($100) with each application. A permit may be renewed by application to the department accompanied by a renewal fee of fifty dollars ($50) on or before December 31st, immediately preceding the permit year for which the permit is issued. To any fee not paid when due, there shall accrue and be added a penalty of twenty-five dollars ($25).

13912. The department may cancel, refuse to issue, or refuse to renew any permit, if it finds, after due notice and a hearing, that the automatic transmission fluid is adulterated or misbranded, or that the registrant has failed to comply with the provisions of this chapter or the rules and regulations of the department. No permit shall be issued or renewed where the applicant or registrant has sold or furnished adulterated or misbranded automatic transmission fluid which has been confiscated and impounded pursuant to Section 13931 unless satisfactory proof is furnished to the department showing restitution has been made to all persons suffering a loss due to the confiscating and impounding of such automatic transmission

fluid. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted therein.

Article 3. Adulteration and Misbranding

13920. Any automatic transmission fluid is adulterated if its quality or characteristics fall below the specifications for automatic transmission fluid established by the department as minimum standards.

13921. The department shall establish specifications for automatic transmission fluid which shall promote the public safety in the operation of automotive vehicles and may amend such specifications by regulation, after a hearing, but in no event shall the specifications for automatic transmission fluid fall below the minimum specifications, if any, established by the Society of Automotive Engineers for automatic transmission fluid.

13922. Automatic transmission fluid shall be deemed to be misbranded if:

(a) The container does not bear on its side or top a label on which is printed the brand name, the name and place of business of the manufacturer, packer, seller, or distributor, the words "Automatic Transmission Fluid," and, if required by regulation established by the department, the duty type classification.

(b) The container does not bear on its side or top an accurate statement of the quantity of the contents in terms of liquid measure.

(c) The labeling on the container is false or misleading in any particular.

The words and letters required by this section shall appear on the label in legible type.

Article 4. Enforcement

13930. The department shall enforce the provisions of this chapter, and may sample, inspect, analyze, and test any automatic transmission fluid manufactured, packed, stored, sold, or distributed within this state. The department through its agents shall have free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale, or transportation of automatic transmission fluid and may by legal means open any box, carton, parcel, or container of automatic transmission fluid and take therefrom samples for analysis or for evidence.

13931. Any enforcing officer is authorized to confiscate and impound any adulterated or misbranded automatic transmission fluid until such time as a court of competent jurisdiction shall order and direct the final disposition of the confiscated product. Such confiscation or impoundment shall not affect any rights of a retailer

under a warranty of merchantability or warranty of fitness.

13932. The department upon request shall furnish to each county sealer a list of the brands and trademarks of automatic transmission fluid registered by the department. No labeling relating to any automatic transmission fluid shall contain any statement that the automatic transmission fluid has been approved by the department, but a statement that the automatic transmission fluid has been registered by the department may be included in such labeling.

13933. All fees collected under the provisions of this chapter shall be credited to the Department of Food and Agriculture Fund.

Article 5. Penalties

13940. It is unlawful to sell or distribute any automatic transmission fluid which is adulterated or misbranded, or which is not registered, or without a valid permit as required by Section 13910.

SEC. 9. Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code is repealed.

SEC. 10. Chapter 7 (commencing with Section 20700) of Division 8 of the Business and Professions Code is repealed.

SEC. 11. Chapter 10 (commencing with Section 21700) of Division 8 of the Business and Professions Code is repealed.

SEC. 12. Chapter 11 (commencing with Section 21800) of Division 8 of the Business and Professions Code is repealed.

SEC. 13. Chapter 11.5 (commencing with Section 21900) of Division 8 of the Business and Professions Code is repealed.

SEC. 14. The provisions of this act do not constitute a change in, but are declaratory of, the existing law

SEC. 15. It is the intent of the Legislature, if this bill and Senate Bill No. 1249 are both chaptered and become effective on or before January 1, 1981, and this bill is chaptered after Senate Bill No. 1249, that Section 13411 as added to the Business and Professions Code by Section 5.1 of this act shall become operative, in which case Section 13411 as added to the Business and Professions Code by Section 5 of this act shall not become operative.

SEC. 16. It is the intent of the Legislature, if this bill and Assembly Bill No. 2348 are both chaptered and become effective on or before January 1, 1981, and this bill is chaptered after Assembly Bill No. 2348, that Section 13431 as added to the Business and Professions Code by Section 5.2 of this act shall become operative, in which case Section 13431 as added to the Business and Professions Code by Section 5 of this act shall not become operative.

SEC. 17. It is the intent of the Legislature that Section 5.3 of this act shall become operative only if this bill and Assembly Bill No. 2758 are both chaptered and become effective on January 1, 1981, and this bill is chaptered after Assembly Bill No. 2758.

SEC. 18. If Section 13411 of the Business and Professions Code, as added by Section 5.1 of this act, becomes operative, it is not the intent

of the Legislature in enacting such provision to authorize any tie-in arrangements which are otherwise prohibited by any provision of Part 2 (commencing with Section 16600) of Division 7 of the Business and Professions Code or the Sherman Act or the Clayton Act or the Emergency Petroleum Allocation Act of 1973, as amended, or any regulations promulgated pursuant thereto.

CHAPTER 637

An act to add Section 118.9 to the Streets and Highways Code, relating to state highways.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 118.9 is added to the Streets and Highways Code, to read:

118.9. If the department sells or exchanges as excess real property the old Greek Orthodox Church property at the 10th Street and Castro Street intersection in the City of Oakland, it shall limit the use of such property to a nonprofit purpose which provides access to the public and preserves the historical condition, integrity, and dignity of the property. Notwithstanding any other provision of law, the department shall first offer the old Greek Orthodox Church property for sale to the Committee to Save the Brush Street Church.

The Legislature finds and declares that the old Greek Orthodox Church property in the City of Oakland has been declared both a state and federal historical monument which should be preserved for future generations.

CHAPTER 638

An act relating to Owens Dry Lake, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Notwithstanding Section 21191 of the Public Resources Code, the sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the California Environmental License Plate Fund to the State Lands Commission

for expenditure during the 1979–80 through 1982–83 fiscal years, for the conduct of a research program to study controlling fugitive dust generated from the bed of Owens Dry Lake in Inyo County. This program shall be conducted in cooperation with the County of Inyo, the County of Kern, the Great Basin Unified Air Pollution Control District, the Los Angeles Department of Water and Power, the United States Navy and the Owens Dry Lake Task Force. The State Lands Commission shall submit annual reports to the Legislature on the progress of this program.

SEC. 2. The Owens Dry Lake Dust Control Program shall consist of mapping surficial soil-types and geomorphic patterns on Owens Dry Lake; establishing test plots and conducting field demonstration studies; taking of soil and water samples and their analysis; conducting laboratory soil stabilization and vegetation studies; and the writing of a final report covering all phases of the dust control program including mapping, observations, verifications and recommendations.

SEC. 3. The State Air Resources Board, the State Water Resources Control Board, the State Resources Agency and the Department of Fish and Game shall cooperate with the State Lands Commission in the conduct of this program.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The Owens Dry Lake fugitive dust has intermittent, but serious air quality impacts on the western portion of the Southeast Desert Air Basin. When windy conditions prevail, alkali dust blows into the atmosphere creating havoc for the area's residents and adversely affecting their health as well as the lives of neighboring plants and animals. In order to prevent further inconvenience of the area, it is necessary that this act take effect immediately.

CHAPTER 639

An act to amend Section 69585 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 69585 of the Government Code is amended to read:

69585. In the County of Kern there shall be 10 judges of the superior court.

SEC. 2. Notwithstanding Section 2231 of the Revenue and

Taxation Code, there shall be no reimbursement pursuant to that section except that provided for by Section 3 of this act, nor shall there be any appropriation made by this act other than that made by Section 3 of this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

SEC. 3. The sum of one hundred sixty-four thousand seven hundred six dollars ($164,706) is hereby appropriated from the General Fund to the Controller for allocation and disbursement, as follows:

(a) In augmentation of Item 21, Budget Act of 1980, for the state's share of salaries of judges of the superior court as provided by Section 68206 of the Government Code	$44,706
(b) In augmentation of Item 22, Budget Act of 1980, for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act	120,000

CHAPTER 640

An act to amend Section 12640.09 of the Insurance Code, relating to insurance.

[Became law without Governor's signature Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 12640.09 of the Insurance Code is amended to read:

12640.09. (a) A mortgage guaranty insurer shall limit its coverage for the class of insurance defined in paragraphs (1) and (2) of subdivision (a) of Section 12640.02 to a maximum of a net of 25 percent at risk of the entire indebtedness to the insured, or in lieu thereof, a mortgage guaranty insurer may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

(b) Notwithstanding subdivision (a), a mortgage guaranty insurer may extend its coverage for the class of insurance defined in paragraphs (1) and (2) of subdivision (a) of Section 12640.02 beyond the limit established by subdivision (a) of this section, provided such excess is insured by a contract of reinsurance.

(c) Notwithstanding any provision of law to the contrary, a

mortgage guaranty insurer may, by contract, reinsure any insurance it transacts, provided such reinsurance shall be with either:

(1) A mortgage guaranty insurer; or

(2) A nonaffiliated insurer or reinsurer which writes any type or types of insurance or reinsurance and which meets the following requirements:

(i) Has paid-in capital of at least one million dollars ($1,000,000) and paid-in surplus of at least one million dollars ($1,000,000);

(ii) Derives, on an annual basis, at least 50 percent of its premium income from reinsurance; or, alternatively, derives at least twenty-five million dollars ($25,000,000) of premium income per year from reinsurance.

The ceding company shall establish and maintain those reserves referred to in Sections 12640.04 and 12640.16. As to the contingency reserve required by Section 12640.04, there shall be no reduction by reason of any risk ceded.

Any such insurer or reinsurer shall be authorized to contract for such reinsurance, but nothing herein contained shall be deemed to permit such insurer or reinsurer to directly write mortgage guaranty insurance.

CHAPTER 641

An act to amend Sections 1904 and 1906 of the Welfare and Institutions Code, relating to youth service bureaus, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 1904 of the Welfare and Institutions Code is amended to read:

1904. From any state moneys made available to it for such purpose, the Department of the Youth Authority shall, in accordance with this article, share in the cost of each youth service bureau meeting the standards prescribed for youth service bureaus by the department at the rate of 50 percent of the actual fiscal year costs of each youth service bureau, or eighty-seven thousand two hundred dollars ($87,200) per fiscal year for each youth service bureau, whichever amount is the lesser.

SEC. 2. Section 1906 of the Welfare and Institutions Code is amended to read:

1906. The Department of the Youth Authority shall submit a report to the Legislature by January 1, 1982, describing the youth service bureaus funded by this article. Such report shall include, but

not be limited to, the types of services and programs offered by each bureau, the number and characteristics of the clients served, the source of referrals, the services provided to clients and the dispositions of cases.

SEC. 3. The sum of six hundred ninety-seven thousand six hundred dollars ($697,600) is hereby appropriated from the General Fund to the Department of the Youth Authority for allocation pursuant to Sections 1902 and 1904 of the Welfare and Institutions Code for the 1980–81 fiscal year. It is the intention of the Legislature that funding in future years shall be through the normal budgetary process.

SEC. 4. The purpose of the appropriation made by Section 3 of this act is to maintain the youth service bureaus under contract with the Department of the Youth Authority on the effective date of this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Youth service bureaus represent an invaluable alternative to the detention of juvenile offenders. These bureaus currently service a large portion of the juvenile offender and preoffender population. In order to assure the continuing operation of existing bureaus, it is necessary that this act take effect immediately.

CHAPTER 642

An act to add Section 3523.1 to the Elections Code, relating to elections.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 3523.1 is added to the Elections Code, to read:

3523.1. Upon the certification of an initiative measure for the ballot, the Secretary of State shall transmit copies of the initiative measure, together with the ballot title as prepared by the Attorney General pursuant to Section 3530, to the Senate and Assembly. Each house shall assign the initiative measure to its appropriate committees. The appropriate committees shall hold joint public hearings on the subject of such measure prior to the date of the election at which the measure is to be voted upon; provided, that no such hearing may be held within 30 days prior to the date of the election.

Nothing in this section shall be construed as authority for the

Legislature to alter the initiative measure or prevent it from appearing on the ballot.

CHAPTER 643

An act to add Chapter 7 (commencing with Section 11700) and Chapter 8 (commencing with Section 11995) to Division 3 of Title 2 of, and to repeal Chapter 7 (commencing with Section 11700), Chapter 7.5 (commencing with Section 11750), and Chapter 8 (commencing with Section 11775) of Division 3 of Title 2 of, the Government Code, relating to electronic data processing systems.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Chapter 7 (commencing with Section 11700) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 7 (commencing with Section 11700) of Division 3 of Title 2 is added to the Government Code, to read:

CHAPTER 7. ELECTRONIC DATA PROCESSING

Article 1. Policy

11700. The Legislature finds that electronic data processing technology is an indispensable tool of modern government for the rapid and efficient handling of data, records, information, and transactions, and for assisting decisionmakers in carrying out their tasks and responsibilities at all levels of government. "Electronic data processing" means the process that encompasses all computerized and auxiliary automated information handling, including systems analysis and design, conversion of data, computer programming, information storage and retrieval, data transmission, requisite system controls, simulation, and all the related man-machine interaction. Effective and economical use of this management tool requires comprehensive planning; coordination and cooperation among agencies and levels of government; sound policies; effective implementation practices; and adequate management controls.

11701. It is the intent of the Legislature:

(a) That there be specific objectives and definitive policies to guide the development of electronic data processing systems, procedures, and techniques within the governmental sector;

(b) That policies and plans developed within state government recognize fully the interrelationships and impact of state activities on local governments and on agencies of the federal government, and that such policies and plans represent the best interests of all of

California's citizens;

(c) That there be plans for enhancing the use of electronic data processing within state government, encompassing both short-term and long-range needs, and that these plans be continually updated;

(d) That the plans provide for optimum utilization of electronic data processing equipment; maximum practical integration of electronic data processing systems; the establishment of service centers, as required, to provide data processing services to units of state government as needed; adherence to standards ensuring appropriate compatibility of systems and interchange of data and information; and proper management controls to ensure the most efficient, effective, and economical use of the state's resources for electronic data processing;

(e) That appropriate criteria be developed for cost sharing and evaluation of effectiveness for the utilization of electronic data processing systems; and

(f) That such goals as one-time collection of data, minimum duplication of records, and maximum availability of information at lowest overall cost will not jeopardize or compromise the confidentiality of information as provided by statute or the protection of the right of individual privacy as established by law.

Article 2. Management of Electronic Data Processing

11710. It is the intention of the Legislature that the Director of Finance is the state's advocate in the exploitation of information technology to increase the effectiveness and efficiency of government electronic data processing services in program and support areas. The Department of Finance shall adopt procedures to carry out its advocacy role and shall publish and maintain them in the State Administrative Manual.

11711. It is the intention of the Legislature that the Director of Finance shall adopt policies and guidance to carry out electronic data processing budgeting and control of expenditure responsibilities and shall publish and maintain them in the State Administrative Manual. The Department of Finance shall approve proposed expenditures for electronic data processing only if these policies and procedures have been met and followed.

Article 3. Chief of the State Office of Information Technology

11720. There is in the Department of Finance a State Office of Information Technology which shall be under the supervision of the Chief of the State Office of Information Technology, who shall be appointed by the Governor and shall serve at the pleasure of the Director of Finance. The salary shall be fixed by the Director of Finance in accordance with law.

11721. The Chief of the State Office of Information Technology shall assist the Director of Finance in carrying out the responsibilities

outlined in Section 11710 and for expeditiously implementing the intent of the Legislature as established in Sections 11700 and 11701. The chief shall also assist the Director of Finance to carry out all of the following:

(a) Establish and maintain criteria for determining which data center is to provide which data processing service to each state agency.

(b) Establish policies for the development, operation, maintenance and performance management of data processing information systems, including but not limited to equipment, software, and data communications.

(c) Establish and maintain the criteria to be followed by data processing in each state agency in providing confidentiality and security of data, and the security of data processing facilities and equipment.

(d) Establish policies and guidelines for the exchange of data between data centers by intercoupling or telecommunications to ensure that exchanges do not jeopardize data security and confidentiality.

These policies and criteria shall be published and maintained in the State Administrative Manual.

Article 4. Data Centers

11751. There is in the Department of Justice the Law Enforcement Data Center. The Law Enforcement Data Center shall be under the supervision of a data center director who shall be appointed by the Attorney General, pursuant to civil service. The data center director shall be responsible for the efficient and effective management and operation of the data center.

11752. There is in the Business and Transportation Agency the Stephen P. Teale Data Center. The Stephen P. Teale Data Center shall be under the supervision of a data center director who shall be appointed by the Secretary of the Business and Transportation Agency, pursuant to civil service. The data center director shall be responsible for the efficient and effective management and operation of the data center.

11753. There is in the Health and Welfare Agency the Health and Welfare Agency Data Center. The Health and Welfare Agency Data Center shall be under the supervision of a data center director who shall be appointed by the Secretary of the Health and Welfare Agency, pursuant to civil service. The data center director shall be responsible for the efficient and effective management and operation of the data center.

11754. There is in the State Treasury, the Stephen P. Teale Data Center Revolving Fund, hereafter referred to as the "TDC Fund," which fund is continuously appropriated for the purposes of this act, and such fund shall be continuously utilized without regard to fiscal years for the payment of expenses incurred by the Stephen P. Teale

Data Center.

The TDC Fund shall consist of the following·

(a) All moneys appropriated by the Legislature for such fund in accordance with law.

(b) All moneys received into the State Treasury from any source whatever in payment of electronic data processing services rendered by the Stephen P. Teale Data Center or for other services rendered by the Stephen P. Teale Data Center.

(c) All moneys from outstanding balances of prior fiscal years which have not reverted to the General Fund.

(d) The balance remaining in the TDC Fund at the end of any fiscal year whether the moneys received are from an appropriation or from payments for services rendered.

If the balance remaining in the TDC Fund at the end of any fiscal year exceeds 25 percent of the Stephen P. Teale Data Center's current fiscal year budget, the billing rates for services rendered shall be adjusted downward for the following fiscal year.

11755. There is in the State Treasury, the Health and Welfare Agency Data Center Revolving Fund, hereafter referred to as the "HWDC Fund." The money in such fund shall be utilized for the payment of expenses incurred by the Health and Welfare Agency Data Center upon appropriation by the Legislature.

The HWDC Fund shall consist of the following:

(a) All moneys appropriated by the Legislature for such funds in accordance with law.

(b) All moneys received into the State Treasury from any source whatever in payment of electronic data processing services rendered by the Health and Welfare Agency Data Center or for other services rendered by the Health and Welfare Agency Data Center.

(c) All moneys from outstanding balances of prior fiscal years which have not reverted to the General Fund.

(d) The balance remaining in the HWDC Fund at the end of any fiscal year whether the moneys received are from an appropriation or from payments for services rendered.

If the balance remaining in the HWDC Fund at the end of any fiscal year exceeds 25 percent of the Health and Welfare Agency Data Center's current fiscal year budget, the excess amount shall be used to reduce the billing rates for services rendered during the following fiscal year.

11757. No exchange or transfer of data between data centers by intercoupling, or telecommunication, shall be made except with the approval of the Department of Finance. This section shall not prohibit the transmission of data from the Department of Motor Vehicles to the Law Enforcement Data Center in order to obtain vehicle registration and driver license data for criminal justice information purposes, or transmission of data between centers in the same state agency.

Article 5. Agencies Using Data Processing Services

11761. The chief executive officer of each state agency which uses data processing services shall have complete responsibility for the information which his agency collects, processes, stores, or uses. If his agency receives data processing services from a data center or other agency, he shall have full control over all data processing systems design, procedures, input, input format, output, and output format concerning the agency data processing programs and services to be received.

Article 6. Data Security and Confidentiality

11771. The chief executive officer of each state agency which uses, receives, or provides data processing services shall designate an information security officer who shall be responsible for implementing state policies and standards regarding the confidentiality and security of information pertaining to his respective agency. Such policies and standards shall include, but are not limited to, strict controls to prevent unauthorized access to data maintained in computer files, program documentation, data processing systems, data files, and data processing equipment physically located in such agency.

11772. Any contract entered into by any state agency which includes provisions for data processing systems design, programming, documentation, conversion, equipment maintenance, and similar aspects of data processing services shall contain a provision requiring the contractor and all of his staff working under such contract to maintain all confidential information obtained as a result of such contract as confidential and to not divulge such information to any other person or entity.

Article 7. Applicability

11791. The provisions of this chapter shall not apply to the University of California, the State Compensation Insurance Fund, the community college districts, agencies provided for by Article VI of the Constitution, or the Legislature.

SEC. 3. Chapter 7.5 (commencing with Section 11750) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 4. Chapter 8 (commencing with Section 11775) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 5. Chapter 8 (commencing with Section 11995) is added to Division 3 of Title 2 of the Government Code, to read:

CHAPTER 8. CALIFORNIA INFORMATION SYSTEMS IMPLEMENTATION COMMITTEE

Article 1. Policy

11995. Electronic data processing policies have been established in Sections 11700 and 11701. It is the intent of the Legislature that these policies and any others deemed necessary be implemented expeditiously.

11996. There is in state government a California Information Systems Implementation Committee, hereafter referred to as the committee. It shall consist of the Secretary of the Business and Transportation Agency, the Secretary of the Health and Welfare Agency, the Chairman and Vice Chairman of the Assembly Committee on Ways and Means, the Chairman and Vice Chairman of the Senate Committee on Finance, the Director of Finance, the Director of General Services, the Chairman and Vice Chairman of the Joint Legislative Budget Committee, and the Chairman and Vice Chairman of the Joint Legislative Audit Committee. The chairman shall be elected by the committee at its first meeting.

The committee shall exist for the specific purpose of formulating recommendations regarding appropriate legislative and executive actions required for implementing the state's electronic data processing policies as set forth in Article 1 (commencing with Section 11700) of Chapter 7.

11997. The committee shall begin its work immediately.

11998. The committee, in carrying out its specific purpose, shall do all of the following:

(a) Review electronic data processing policies set forth in Article 1 (commencing with Section 11700) of Chapter 7, and make recommendations for appropriate additions, deletions, or revisions thereto.

(b) Review and recommend electronic data processing procedures for implementing the policies of protecting the privacy and confidentiality of records and the rights and privacy of the individual as established by law.

(c) Make recommendations for the effective use of electronic data processing systems in productivity measurements.

(d) Submit an annual report to the Legislature and the Governor on or before February 1 of each year which shall specify the recommendations and procedures for implementing the conclusions of the committee.

CHAPTER 644

An act to add Section 6513 to the Welfare and Institutions Code, relating to the developmentally disabled, and making an appropriation therefor.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 6513 is added to the Welfare and Institutions Code, to read:

6513. (a) The State Department of Developmental Services shall pay for the costs as defined in this section of judicial proceedings, including commitment, placement, or release, under this article under the following conditions:

(1) The judicial proceedings are in a county within which a state hospital maintains a treatment program for mentally retarded persons who are a danger to themselves or others; and

(2) The judicial proceedings relate to a mentally retarded person who is at the time residing in the state hospital.

(b) The county clerk of a county described in subdivision (a) may make out a statement of all costs incurred by the county in the investigation, preparation for, and conduct of such proceeding, including any costs of the district attorney or county counsel and any public defender or court-appointed counsel representing such person, and including any costs incurred by the county for the guarding or keeping of such person while away from the state hospital and for transportation of such person to and from the hospital. Such statement shall be certified to by a judge of the superior court and shall be sent to the State Department of Developmental Services. In lieu of sending statements after each proceeding, such statements may be held and submitted quarterly for the preceding three-month period.

SEC. 2. The sum of one hundred twelve thousand five hundred dollars ($112,500) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies to reimburse such agencies for costs incurred by them pursuant to Chapter 1319 of the Statutes of 1978 that have been reviewed and approved by the State Department of Developmental Services.

CHAPTER 645

An act to add Section 6376.5 to the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 6376.5 is added to the Revenue and Taxation Code, to read:

6376.5. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other

consumption in this state of meals and food products for human consumption furnished to and consumed by persons 62 years of age or older residing in a condominium and who own equal shares in a common kitchen facility; provided, that the meals and food products are served to such persons on a regular basis.

SEC. 2. (a) Section 1 of this act shall not become operative if the initiative constitutional amendment which proposes to add Section 26.5 to Article XIII of the Constitution is approved by the voters at the Direct Primary Election to be held on Tuesday, June 3, 1980.

(b) Notwithstanding subdivision (a) the State Board of Equalization shall not collect any taxes with respect to any transaction described in Section 6376.5 of the Revenue and Taxation Code which occurred prior to the adoption of the initiative constitutional amendment which proposes to add Section 26.5 to Article XIII of the Constitution if such amendment is approved by the voters.

SEC. 3. The sum of seven thousand ($7,000) is hereby appropriated to the Controller from the General Fund to make the payments to counties and cities required by Section 2230 of the Revenue and Taxation Code to reimburse them for revenue losses caused by Section 1 of this act in the initial fiscal year in which this act is effective. The appropriation made by this section shall be allocated in the manner specified in Section 2230.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 646

An act to add Section 767.5 to, and to repeal Section 767.5 of, the Public Utilities Code, relating to cable television, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 767.5 of the Public Utilities Code is repealed.

SEC. 2. Section 767.5 is added to the Public Utilities Code, to read:

767.5. (a) As used in this section:

(1) "Public utility" includes any person, firm, or corporation, except a publicly-owned public utility, which owns or controls, or in combination jointly owns or controls, support structures or

rights-of-way used or useful, in whole or in part, for wire communication.

(2) "Support structure" includes, but is not limited to, a utility pole, anchor, duct, conduit, manhole, or handhole.

(3) "Pole attachment" means any attachment to surplus space, or use of excess capacity, by a cable television corporation for a wire communication system on or in any support structure located on or in any right-of-way or easement owned, controlled, or used by a public utility.

(4) "Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the commission, to allow its use by a cable television corporation for a pole attachment.

(5) "Excess capacity" means volume or capacity in a duct, conduit, or support structure other than a utility pole or anchor which can be used, pursuant to the orders and regulations of the commission, for a pole attachment.

(6) "Usable space" means the total distance between the top of the utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance.

(7) "Minimum allowable vertical clearance" means the minimum clearance for communication conductors along rights-of-way or other areas as specified in the orders and regulations of the commission.

(8) "Rearrangements" means work performed, at the request of a cable television corporation, to, on, or in an existing support structure to create such surplus space or excess capacity as is necessary to make it usable for a pole attachment. When an existing support structure does not contain adequate surplus space or excess capacity and cannot be so rearranged as to create the required surplus space or excess capacity for a pole attachment, "rearrangements" shall include replacement, at the request of a cable television corporation, of the support structure in order to provide adequate surplus space or excess capacity.

(9) "Annual cost of ownership" means the sum of the annual capital costs and annual operation costs of the support structure which shall be the average costs of all similar support structures owned by the public utility. The basis for computation of annual capital costs shall be historical capital costs less depreciation. The accounts upon which the historical capital costs are determined shall include a credit for all reimbursed capital costs of the public utility. Depreciation shall be based upon the average service life of the support structure. As used in this paragraph, "annual cost of ownership" shall not include costs for any property not necessary for a pole attachment.

(b) The Legislature finds and declares that public utilities have dedicated a portion of such support structures to cable television corporations for pole attachments in that public utilities have made available, through a course of conduct covering many years, surplus

space and excess capacity on and in their support structures for use by cable television corporations for pole attachments, and that the provision by such public utilities of surplus space and excess capacity for such pole attachments is a public utility service delivered by public utilities to cable television corporations.

The Legislature further finds and declares that it is in the interests of the people of California for public utilities to continue to make available such surplus space and excess capacity for use by cable television corportions.

(c) Whenever a public utility and a cable television corporation or association of cable television corporations are unable to agree upon the terms, conditions, or annual compensation for pole attachments or the terms, conditions, or costs of rearrangements, the commission shall establish and enforce the rates, terms, and conditions for pole attachments and rearrangements so as to assure a public utility the recovery of both of the following:

(1) A one-time reimbursement for actual costs incurred by the public utility for rearrangements performed at the request of the cable television corporation.

(2) An annual recurring fee computed as follows:

(A) For each pole and supporting anchor actually used by the cable television corporation, for a period of four years following the effective date of this section, the annual fee shall be two dollars and fifty cents ($2.50). Thereafter, the annual fee shall be two dollars and fifty cents ($2.50) or 7.4 percent of the public utility's annual cost of ownership for the pole and supporting anchor, whichever is greater, except that if a public utility applies for establishment of a fee in excess of two dollars and fifty cents ($2.50) under this section, the annual fee shall be 7.4 percent of the public utility's annual cost of ownership for the pole and supporting anchor.

(B) For support structures used by the cable television corporation, other than poles or anchors, a percentage of the annual cost of ownership for the support structure, computed by dividing the volume or capacity rendered unusable by the cable television corporation's equipment, by the total usable volume or capacity. As used in this paragraph, "total usable volume or capacity" means all volume or capacity in which the public utility's line, plant, or system could legally be located, including the volume or capacity rendered unusable by the cable television corporation's equipment.

(d) In the event that it becomes necessary for the public utility to use space or capacity on or in a support structure occupied by the cable television corporation's equipment, the cable television corporation shall either (1) pay all costs for rearrangements necessary to maintain the pole attachment, or (2) remove its cable television equipment at its own expense.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that California law be brought into uniformity with the policy and procedures of the Federal Communications Commission respecting charges and costs for the attachment of cable television apparatus to utility poles and structures as soon as possible in the interests of uniformity, consistency, and efficiency, it is necessary that this act take effect immediately.

CHAPTER 647

An act relating to the 51st District Agricultural Association, and making an appropriation therefor.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980]

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

SECTION 1. The Department of General Services shall, in conjunction with the Division of Fairs and Expositions in the Department of Food and Agriculture, conduct a study to determine estimated costs to provide the 51st District Agricultural Association with land and buildings for holding fairs and other activities by the association. Such study shall review land acquisition and construction costs for the alternatives of:

(a) A fair development with the same land size and the same amount of construction as the district originally had prior to 1959; and

(b) A fair development of sufficient size to meet the community needs at this time based upon the needs for agricultural displays, industrial displays, meeting rooms, and other generally accepted fair uses in communities of comparable size. The study to be done shall include land acquisition cost estimates for all potential sites which are reasonably feasible locations for the permanent home for the San Fernando Valley Fair. The study shall also ascertain the estimated date after which the existing temporary fair site will no longer be available and the timetable which will have to be met to have the new fair site completed prior to the date on which the former site will have to be vacated. The Department of General Services shall report the results of such study to the Legislature by April 1, 1981.

SEC. 2. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the appropriation under Section 19630 of the Business and Professions Code made to the Fair and Exposition Fund, to the Department of General Services to conduct the study and make the report described in Section 1 of this act.

The sum appropriated by this section shall be matched by an equal amount from funds of the 51st District Agricultural Association.

CHAPTER 648

An act to amend Sections 102100, 102106, and 102222 of, and to add Section 102107 to, the Public Utilities Code, relating to transit districts.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 102100 of the Public Utilities Code is amended to read:

102100. Except as otherwise provided, the government of the district shall be vested in a board of directors consisting of not less than seven members nor more than 11 members who shall serve four-year terms.

At the first regularly scheduled meeting of the board after January 1, 1981, the directors shall provide for staggered terms by first classifying themselves according to the appointing jurisdiction and secondly classifying themselves by lot so that a director representing the City of Sacramento and a director representing the County of Sacramento shall each hold office for two years, one each shall hold office for three years, and the remainder of the board shall hold office for four years. Thereafter, appointments to the board shall follow the term of the position being filled and all terms shall be for four years, except that, if the number of directors is increased, the term of the newly appointed director shall be fixed by the board so that not more than three terms shall expire in any one year. In no event shall any director hold office for more than two successive terms, counting the term in effect on January 1, 1980, as the first term.

The first board of directors shall consist of seven members appointed within 30 days after the district is formed as provided in Section 102052. Four members of the first board of directors shall be appointed by the City Council of the City of Sacramento. Three members of the first board of directors shall be appointed by the Board of Supervisors of the County of Sacramento, unless, prior to the 30th day after the district is formed, the Board of Supervisors of Yolo County has adopted a resolution declaring there is a need for the district to operate, in which case, two members of the first board of directors shall be appointed by the Board of Supervisors of the County of Sacramento and one member of the first board of directors shall be appointed by the Board of Supervisors of Yolo County.

The number of the directors of the district shall be increased by the board, to a maximum number of 11, as may be necessary to provide that each city and county specifically named in Sections 102015 and 102016, which is receiving service from the district and is rendering tax or financial support to the district, shall have at least one appointment to the board.

The appointments to the board may be changed in the following manner. Not more often that every two years, the counties, for the unincorporated areas thereof, and the cities in which the district is providing service and in which the voters have authorized the district to operate and levy a tax within their boundaries or which are providing financal support to the district, may by agreement apportion the appointments to the board among them in the approximate ratio that the district provides transit service, as determined by the gross cost of such service without regard to income or revenues of the district, within their respective boundaries. However, there shall be at least one appointment by each such city and county specifically named in Sections 102015 and 102016.

SEC. 2. Section 102106 of the Public Utilities Code is amended to read:

102106. The members of the board shall receive for each attendance at the meetings of the board the sum of fifty dollars ($50), but not to exceed two hundred dollars ($200) in any calendar month, and shall be allowed their actual necessary traveling expenses incurred in the discharge of their duties.

SEC. 3. Section 102107 is added to the Public Utilities Code, to read:

102107. (a) No ordinance shall be passed by the board on the day of its introduction, nor within three days thereafter, nor at any time other than at a regular or adjourned regular meeting. The enacting clause of all ordinances shall be as follows:

"The board of directors of the Sacramento Regional Transit District do ordain as follows:"

(b) All ordinances shall be signed by the chairman of the board or the chairman pro tempore and attested by the secretary. Before the expiration of 15 days after the passage of an ordinance, it shall be published once in a newspaper of general circulation in the district. An order entered in the minutes of the board that the ordinance has been duly published is prima facie proof of such publication.

SEC. 4. Section 102222 of the Public Utilities Code is amended to read:

102222. Contracts for the purchase of supplies, equipment, and materials in excess of ten thousand dollars ($10,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in an emergency declared by four-fifths vote of the board of the district.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 649

An act to amend Sections 4008, 4035, 4035.2, 4035.3, 4050, 4211, 4229, 4230, 4234, 4240, 4353, 4362, 4382, 4385, 4386, 4387, and 4390.1 of, to add Section 4047.1 to, and to repeal Sections 4181, 4227.5, 4235, 4389, and 4392 of, the Business and Professions Code, relating to pharmacy.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 4008 of the Business and Professions Code is amended to read:

4008. The board may make such rules and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public. Included therein shall be the right to make rules and regulations as follows: for the proper and more effective enforcement and administration of this chapter; pertaining to the practice of pharmacy; relating to the sanitation of persons and establishments licensed under the provisions of this chapter; pertaining to establishments wherein any drug is compounded, prepared or sold; providing for standards of minimum equipment of establishments licensed under the provisions of this chapter; pertaining to the sale of drugs by or through any mechanical device.

Notwithstanding any provision of this chapter to the contrary, the board may adopt regulations permitting the dispensing of drugs or devices in emergency situations, and permitting dispensing of emergency drugs pursuant to a prescription given by a person licensed to prescribe in a state other than California.

SEC. 2. Section 4035 of the Business and Professions Code is amended to read:

4035. Pharmacy is an area, place or premises in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" means and includes but is not limited to any area, place or premises described in a permit issued by the board by reference to plans filed with and approved by the board wherein narcotics or dangerous drugs or dangerous devices, as they are herein defined, are stored, possessed, prepared, manufactured, derived, compounded or repackaged, and from which said narcotics or dangerous drugs or dangerous devices are furnished, sold, or dispensed at retail.

"Pharmacy" shall not include any area in a facility licensed by the State Department of Health Services where floor supplies, ward supplies, operating room supplies, or emergency room supplies of drugs or dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment of patients receiving emergency care in the facility.

"Narcotics or dangerous drugs or dangerous devices" as used

herein shall include but is not limited to all narcotics, drugs or devices which are included within one or more of the following classifications:

(a) Drugs or devices bearing the legend, "Caution, federal law prohibits dispensing without prescription," or words of similar import.

(b) Controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(c) Drugs or devices enumerated in Section 4211 of this code.

(d) Drugs or devices heretofore or hereafter classified as dangerous by the board pursuant to Sections 4061 and 4240 of this code.

(e) Hypodermic syringes and needles, or other drugs or devices, the sale of which is restricted by law to a registered pharmacist.

Neither this section nor any other provision of law shall be construed as prohibiting a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with facility regulations of the Department of Health Services set forth in Title 22 of the California Administrative Code.

SEC. 3. Section 4035.2 of the Business and Professions Code is amended to read:

4035.2. No person other than a registered pharmacist as defined in Section 4037 or an intern pharmacist as defined in Section 4038.1 or an authorized officer of the law or a person authorized to prescribe as provided by Section 4036 shall be permitted in that area, place or premises described in the permit issued by the board pursuant to Section 4035 wherein narcotics or dangerous drugs or dangerous devices as therein defined are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, except that a registered pharmacist shall be responsible for any individual who enters the pharmacy as described in Section 4035 for the purposes of receiving consultation from the pharmacist or of performing clerical, inventory control, housekeeping, delivery, maintenance or similar functions relating to the pharmacy, if the registered pharmacist remains present in the pharmacy during all times as such authorized individual is present.

The board may by regulation establish reasonable security measures consistent with this section in order to prevent unauthorized persons from gaining access to such area, place or premises or to the narcotics or dangerous drugs or dangerous devices therein.

SEC. 4. Section 4035.3 of the Business and Professions Code is amended to read:

4035.3. No person other than a registered pharmacist as defined in Section 4037 or an intern pharmacist as defined in Section 4038.1 or an authorized officer of the law or a person authorized to prescribe as provided by Section 4036, or a registered nurse, or a

licensed vocational nurse or a person who enters the pharmacy for purposes of receiving consultation from a registered pharmacist or a person authorized by the registered pharmacist in charge to perform clerical, inventory control, housekeeping, delivery, maintenance or similar functions relating to the pharmacy shall be permitted in that area, place or premises described in the permit issued by the board to a licensed or county hospital as such institutions are defined by Section 4047 of this code wherein narcotics or dangerous drugs or dangerous devices as defined by Section 4035 are stored, possessed, prepared, manufactured, derived, compounded, or repackaged.

SEC. 5. Section 4047.1 is added to the Business and Professions Code, to read:

4047.1. As used in this chapter, the terms "skilled nursing facility," "intermediate care facility," and other references to health facilities shall be construed with respect to the definitions contained in Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code.

SEC. 6. Section 4050 of the Business and Professions Code is amended to read:

4050. Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, sell or dispense any dangerous drug, or to dispense or compound any prescription of a medical practitioner unless he is a registered pharmacist under the provisions of this chapter.

SEC. 7. Section 4181 of the Business and Professions Code is repealed.

SEC. 8. Section 4211 of the Business and Professions Code is amended to read:

4211. "Dangerous drug" means any drug unsafe for self-medication, except veterinary drugs which are labeled as such, and includes the following:

(a) Any drug which bears the legend: "Caution: federal law prohibits dispensing without prescription;" or words of similar import.

(b) Any device which bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device; and

(c) Any other drug or device which by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4061 or 4240.

Neither this section, nor any other provision of law, prohibits the sale of devices to skilled nursing facilities or intermediate care facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 9. Section 4227.5 of the Business and Professions Code is repealed.

SEC. 10. Section 4229 of the Business and Professions Code is

amended to read:

4229. No prescription for any dangerous drug may be refilled except upon authorization of the prescriber which may be given orally or at the time of giving the original prescription. No prescription for any dangerous drug which is a controlled substance as defined in subdivision (b) of Section 11007 of the Health and Safety Code may be designated refillable as needed.

SEC. 11. Section 4230 of the Business and Professions Code is amended to read:

4230. No person shall have in possession any Schedule II, III, or IV controlled substance except that furnished to such person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code. The provisions of this section do not apply to the possession of any controlled substance by a manufacturer or wholesaler or a pharmacy or physician or podiatrist or dentist or veterinarian or laboratory or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code when in stock in containers correctly labeled with the name and address of the supplier or producer.

SEC. 12. Section 4234 of the Business and Professions Code is amended to read:

4234. Every person who knowingly or willfully violates any provision of this article with respect to dangerous drugs by use of a minor as an agent is guilty of a felony.

Nothing contained in this section shall apply to a registered pharmacist furnishing such drugs pursuant to a prescription.

SEC. 13. Section 4235 of the Business and Professions Code is repealed.

SEC. 14. Section 4240 of the Business and Professions Code is amended to read:

4240. The board, if after open hearing following due notice to persons who have filed written requests for such notice to the board, shall find any drug to be dangerous to the public health or safety, may make other rules, not inconsistent with this chapter, limiting or

restricting the furnishing of such drug. Any knowing or willful violation of any such rule shall be subject to punishment in the same manner as is respectively provided in Sections 4234 and 4382.

SEC. 15. Section 4353 of the Business and Professions Code is amended to read:

4353. The administering to himself, of any of the narcotics specified by Sections 11054 and 11055 of the Health and Safety Code, or the use of any of the dangerous drugs specified by Section 4211 of this code, or of alcoholic beverages to the extent or in such manner as to be dangerous or injurious to a person holding a certificate, license, permit, registration or exemption under this chapter, or to any other person or to the public, or to the extent that such use impairs the ability of such person so holding a certificate, license, permit, registration or exemption to conduct with safety to the public the practice authorized by such certificate, license, permit, registration or exemption or the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof, constitutes unprofessional conduct within the meaning of this chapter.

SEC. 16. Section 4362 of the Business and Professions Code is amended to read:

4362. Except as otherwise authorized by law, knowingly selling, furnishing, giving away or administering or offering to sell, furnish, give away or administer drugs or compounds specified in Sections 11054 and 11055 of the Health and Safety Code to a habitué or addict constitutes unprofessional conduct within the meaning of this chapter.

SEC. 17. Section 4382 of the Business and Professions Code is amended to read:

4382. (a) Any person who knowingly violates any of the provisions of this chapter, when no other penalty is provided, is guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine of not less than fifty dollars ($50), and not more than five hundred dollars ($500), or by imprisonment of not less than 30 days or exceeding six months, or by both such fine and imprisonment.

(b) In all other instances, any person who violates any of the provisions of this chapter, when no other penalty is provided, is guilty of an infraction, and upon conviction thereof may be punishable by a fine not to exceed five hundred dollars ($500).

SEC. 18. Section 4385 of the Business and Professions Code is amended to read:

4385. Except as otherwise provided in this chapter, any person who permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs in his pharmacy, except by a registered pharmacist, is guilty of a misdemeanor.

SEC. 19. Section 4386 of the Business and Professions Code is amended to read:

4386. Any person who has obtained a certificate, license, permit or registration to conduct a pharmacy, who fails to place in charge of such pharmacy a registered pharmacist, or any such person, who by himself, or by any other person, permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs, in his pharmacy, except by a registered pharmacist, or as otherwise provided in this chapter, is guilty of a misdemeanor.

SEC. 20. Section 4387 of the Business and Professions Code is amended to read:

4387. Any person, not being a registered pharmacist, who takes charge of, or acts as manager of any pharmacy, or who, not being a registered pharmacist compounds or dispenses a prescription or furnishes dangerous drugs except as otherwise provided in this chapter is guilty of a misdemeanor.

SEC. 21. Section 4389 of the Business and Professions Code is repealed.

SEC. 22. Section 4390.1 of the Business and Professions Code is amended to read:

4390.1. No person other than a physician, dentist, podiatrist, veterinarian, pharmacist, or other person authorized by law to dispense, administer, or prescribe controlled substances, or the person's agent acting under authorization by the person to print prescription blanks, and acting in the regular practice of the person's profession, shall knowingly and willfully manufacture, copy, reproduce, or possess, or cause to be manufactured, copied, reproduced, or possessed, any prescription blank which purports to bear the name, address, and federal registry or other identifying information of a physician, dentist, podiatrist, veterinarian, or other person authorized by law to dispense, administer, or prescribe controlled substances.

Every person who violates the provisions of this section shall be guilty of a misdemeanor.

SEC. 23. Section 4392 of the Business and Professions Code is repealed.

SEC. 24. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 650

An act to amend Sections 11003 and 11005 of the Revenue and Taxation Code, relating to vehicle license fees.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 11003 of the Revenue and Taxation Code is amended to read:

11003. The amount appropriated by the Legislature for the use of the Department of Motor Vehicles for the enforcement of this part shall be transferred from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the Motor Vehicle Account in the State Transportation Fund. Such amount shall be determined so that the appropriate costs for registration and motor vehicle license fee activities are apportioned between the recipients of revenues in proportion to the revenues received by such recipients.

SEC. 2. Section 11005 of the Revenue and Taxation Code is amended to read:

11005. After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving such amount as is determined by the Pooled Money Investment Board to be necessary to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, 100 percent of the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the following manner:

(a) Fifty percent thereof shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit of the Department of Finance or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or census validated by the population research unit of the Department of Finance, or in the case of an inhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit of the

Department of Finance, the Controller shall ascertain the population of the city, or the annexed territory, by multiplying the number of registered electors therein by three. In the case of uninhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the Controller shall ascertain the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code, or, if no such other estimate or census was made, by multiplying the number of registered electors therein by three two years after the completion of annexation proceedings or at such earlier time as the legislative body may request. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit of the Department of Finance.

(b) Fifty percent thereof shall be paid to the counties and cities and counties of the state in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit of the Department of Finance, or as determined by Section 11005.6.

(c) Money disbursed by the Controller pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made and shall become effective on the first day of the month following receipt of such certification.

SEC. 3. This act shall become operative on July 1, 1982.

CHAPTER 651

An act to amend Sections 1812.84, 1812.85, 1812.86, and 1812.89 of the Civil Code, relating to health studios.

[Approved by Governor July 19, 1980 Filed with
Secretary of State July 20, 1980]

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

SECTION 1. Section 1812.84 of the Civil Code is amended to read:

1812.84. No contract for health studio services shall require payments or financing by the buyer over a period in excess of two years from the date the contract is entered into, nor shall the term of any such contract be measured by the life of the buyer; provided, however, that the services to be rendered to the buyer under the contract may extend over a period not to exceed three years from the date the contract is entered into.

SEC. 2. Section 1812.85 of the Civil Code is amended to read:

1812.85. (a) Every contract for health studio services shall provide that performance of the agreed upon services will begin within six months from the date the contract is entered into.

(b) (1) Every contract for health studio services shall, in addition, contain on its face, and in close proximity to the space reserved for the signature of the buyer, a conspicuous statement in a size equal to at least 10-point boldface type, as follows: "You, the buyer, may cancel this agreement at any time prior to midnight of the third business day of the health studio after the date of this agreement, excluding Sundays and holidays. To cancel this agreement, mail or deliver a signed and dated notice, or send a telegram which states that you, the buyer, are canceling this agreement, or words of similar effect. Such notice shall be sent to,

_____
(Name of health studio operator)

at _____
(Address of health studio operator)

(2) The contract for health studio services shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (A) the name and address of the health studio operator to which the notice of cancellation is to be mailed, and (B) the date the buyer signed the contract.

(3) Until the health studio operator has complied with this section, the buyer may cancel the contract for health studio services.

(4) All moneys paid pursuant to such contract for health studio services shall be refunded within 10 days of receipt of the notice of cancellation, except that payment shall be made for any health studio services received prior to such cancellation.

SEC. 3. Section 1812.86 of the Civil Code is amended to read:

1812.86. (a) No contract for health studio services shall require payment by the person receiving the services or the use of the facilities of a total amount in excess of the amount specified in subdivision (b).

(b) The limit specified in subdivision (a) shall, on January 1, 1981, be one thousand dollars ($1,000), exclusive of interest or finance charges.

SEC. 4. Section 1812.89 of the Civil Code is amended to read:

1812.89. (a) (1) Every contract for health studio services shall contain a clause providing that if, by reason of death or disability, the person agreeing to receive services is unable to receive all services for which he has contracted, he and his estate shall be relieved from the obligation of making payment for services other than those received prior to death or the onset of disability, and that if he has prepaid any sum for services, so much of such sum as is allocable to services he has not taken shall be promptly refunded to him or his representative.

(2) In every case in which a person has prepaid a sum for services under a contract for health studio services, and by reason of death or disability, is unable to receive all such services, the party agreeing to furnish such services shall, on request, immediately refund to such person or his personal representative such amount of the sum prepaid as is proportionate to the amount of services not received.

(3) For the purposes of this section, "disability" means a condition which precludes the buyer from physically using the facilities and the condition is verified by a physician.

(4) Notwithstanding the provisions of any contract to the contrary, whenever the contract price is payable in installments and the buyer is relieved from making further payments or entitled to a refund under this section, the amount of the contract price allocable to services not received shall represent at least as great a proportion of the total contract price as the sum of the periodic monthly balances not yet due bears to the sum of all the periodic monthly balances under the schedule of installments in the contract.

(b) (1) Except as provided in paragraph (2), every contract for health studio services shall contain a clause providing that if the person agreeing to receive health studio services moves further than 25 miles from the health studio and is unable to transfer the contract to a comparable facility, such person shall be relieved from the obligation of making payment for services other than those received prior to the move, and if such person has prepaid any sum for health studio services, so much of such sum as is allocable to services he or she has not taken shall be promptly refunded.

(2) Notwithstanding paragraph (1), a contract for health studio services may contain a clause providing that if the person agreeing to receive health studio services moves further than 25 miles from the health studio and is unable to transfer the contract to a comparable facility, such person may be charged a predetermined fee not exceeding one hundred dollars ($100), or, if more than half the life of the contract has expired, such person may be charged a predetermined fee not exceeding fifty dollars ($50).

CHAPTER 652

An act to repeal and add Section 767.5 of the Public Utilities Code, relating to cable television, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 767.5 of the Public Utilities Code is repealed.

SEC. 2. Section 767.5 is added to the Public Utilities Code, to read:

767.5. (a) As used in this section:

(1) "Public utility" includes any person, firm, or corporation, except a publicly owned public utility, which owns or controls, or in combination jointly owns or controls, support structures or rights-of-way used or useful, in whole or in part, for wire communication.

(2) "Support structure" includes, but is not limited to, a utility pole, anchor, duct, conduit, manhole, or handhole.

(3) "Pole attachment" means any attachment to surplus space, or use of excess capacity, by a cable television corporation for a wire communication system on or in any support structure located on or in any right-of-way or easement owned, controlled, or used by a public utility.

(4) "Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the commission, to allow its use by a cable television corporation for a pole attachment.

(5) "Excess capacity" means volume or capacity in a duct, conduit, or support structure other than a utility pole or anchor which can be used, pursuant to the orders and regulations of the commission, for a pole attachment.

(6) "Usable space" means the total distance between the top of the utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance.

(7) "Minimum allowable vertical clearance" means the minimum clearance for communication conductors along rights-of-way or other areas as specified in the orders and regulations of the commission.

(8) "Rearrangements" means work performed, at the request of a cable television corporation, to, on, or in an existing support structure to create such surplus space or excess capacity as is necessary to make it usable for a pole attachment. When an existing support structure does not contain adequate surplus space or excess capacity and cannot be so rearranged as to create the required

surplus space or excess capacity for a pole attachment, "rearrangements" shall include replacement, at the request of a cable television corporation, of the support structure in order to provide adequate surplus space or excess capacity.

(9) "Annual cost of ownership" means the sum of the annual capital costs and annual operation costs of the support structure which shall be the average costs of all similar support structures owned by the public utility. The basis for computation of annual capital costs shall be historical capital costs less depreciation. The accounts upon which the historical capital costs are determined shall include a credit for all reimbursed capital costs of the public utility. Depreciation shall be based upon the average service life of the support structure. As used in this paragraph, "annual cost of ownership" shall not include costs for any property not necessary for a pole attachment.

(b) The Legislature finds and declares that public utilities have dedicated a portion of such support structures to cable television corporations for pole attachments in that public utilities have made available, through a course of conduct covering many years, surplus space and excess capacity on and in their support structures for use by cable television corporations for pole attachments, and that the provision by such public utilities of surplus space and excess capacity for such pole attachments is a public utility service delivered by public utilities to cable television corporations.

The Legislature further finds and declares that it is in the interests of the people of California for public utilities to continue to make available such surplus space and excess capacity for use by cable television corportions.

(c) Whenever a public utility and a cable television corporation or association of cable television corporations are unable to agree upon the terms, conditions, or annual compensation for pole attachments or the terms, conditions, or costs of rearrangements, the commission shall establish and enforce the rates, terms, and conditions for pole attachments and rearrangements so as to assure a public utility the recovery of both of the following:

(1) A one-time reimbursement for actual costs incurred by the public utility for rearrangements performed at the request of the cable television corporation.

(2) An annual recurring fee computed as follows:

(A) For each pole and supporting anchor actually used by the cable television corporation, for a period of four years following the effective date of this section, the annual fee shall be two dollars and fifty cents ($2.50). Thereafter, the annual fee shall be two dollars and fifty cents ($2.50) or 7.4 percent of the public utility's annual cost of ownership for the pole and supporting anchor, whichever is greater, except that if a public utility applies for establishment of a fee in excess of two dollars and fifty cents ($2.50) under this section, the annual fee shall be 7.4 percent of the public utility's annual cost of ownership for the pole and supporting anchor.

(B) For support structures used by the cable television corporation, other than poles or anchors, a percentage of the annual cost of ownership for the support structure, computed by dividing the volume or capacity rendered unusable by the cable television corporation's equipment by the total usable volume or capacity. As used in this paragraph, "total usable volume or capacity" means all volume or capacity in which the public utility's line, plant, or system could legally be located, including the volume or capacity rendered unusable by the cable television corporation's equipment.

(d) In the event that it becomes necessary for the public utility to use space or capacity on or in a support structure occupied by the cable television corporation's equipment, the cable television corporation shall either (1) pay all costs for rearrangements necessary to maintain the pole attachment or (2) remove its cable television equipment at its own expense.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that California law be brought into uniformity with the policy and procedures of the Federal Communications Commission respecting charges and costs for the attachment of cable television apparatus to utility poles and structures as soon as possible in the interests of uniformity, consistency, and efficiency, it is necessary that this act take effect immediately.

CHAPTER 653

An act to add and repeal Division 18 (commencing with Section 26700) of the Public Resources Code, relating to the Office of Appropriate Technology.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Division 18 (commencing with Section 26700) is added to the Public Resources Code, to read:

DIVISION 18. THE OFFICE OF APPROPRIATE TECHNOLOGY

26700. The Legislature hereby finds and declares that:

(a) The Congress of the United States, in enacting the National Energy Conservation Policy Act of 1978 (P.L. 95-619), determined that the United States faces an energy shortage arising from an increasing demand for oil and natural gas while domestic supplies of

oil and natural gas remain insufficient to satisfy such demand.

(b) In response to this situation, the Congress of the United States, through the provisions of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617), the Energy Tax Act of 1978 (P.L. 95-618), the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) and other federal statutes, established national policy for the development of innovative technologies for conservation measures and for alternate methods of energy production so that they may be brought into widespread use in order to reduce the demand for oil and natural gas and thus reduce the need to import such commodities.

(c) The national policy of developing innovative technologies for conservation measures and for alternate methods of energy production (other than direct use of oil and natural gas) and of bringing such technologies into widespread use, is especially important to the economy of California and to the economic welfare of its residents and is, therefore, an important state policy goal.

(d) A program of technology assessment, technical assistance, and educational programs to encourage the rapid development and widespread use of innovative technologies for cost and fuel conservation measures, for alternate methods of energy production, and for other resource conserving technologies is a particularly promising and expeditious way to achieve this goal.

(e) State government must assert its leadership to encourage private citizens, businesses, and local governments to utilize these technologies as widely as possible.

(f) It serves the interests of the people of California to encourage innovative programs and techniques which lessen the impact of rising costs of energy, food and housing, and at the same time protect the health and safety of the public.

26701. The Office of Appropriate Technology is hereby created in the Office of Planning and Research. The purpose of the Office of Appropriate Technology is to advise and assist public agencies, organizations, and citizens in the development of innovative technologies and practices which conserve energy and other resources; to promote and demonstrate the use of these technologies and practices; to research, plan, and evaluate, make findings; and to recommend to the Governor and the Legislature, programs to carry out the purposes of this act.

26702. The Office of Appropriate Technology shall:

(a) Advise the Governor, state agencies, and Legislature on the implementation of innovative technologies related to recycling, waste treatment and disposal, agriculture, community economic and job development, transportation, building design, energy and resource conservation, and other related subjects.

(b) Administer and support programs to carry out the purposes of the office.

(c) Accept and grant funds to public agencies, businesses, nonprofit organizations, and individuals.

(d) Develop and operate projects which demonstrate applications of innovative, cost-effective technologies and techniques.

26703. To carry out the provisions of this article, the Office of Appropriate Technology activities shall utilize the following objectives:

(a) Investigate and evaluate the capital outlay projects proposed by the Governor and enacted by the Legislature, and ensure that they include all feasible resource and energy conserving features which are cost effective, as determined by life cycle cost analysis.

(b) Provide technical assistance and advice to the Legislature and all state agencies concerning the status of developing technologies and the opportunities for use by the state.

(c) Inform and assist citizens and local governments to use or adopt innovative and energy conserving technologies, which will save money through lowered capital and operating costs.

(d) Coordinate its efforts with other state agencies, local governments, and private businesses in order to prevent duplication of research and program activities.

(e) Deliver to the Legislature an annual summary of the accomplishments of the office.

26704. The Governor shall appoint a Director of the Office of Appropriate Technology. The director shall appoint and organize a staff to assist in the implementation of the purposes and duties of the office.

26705. The Office of Appropriate Technology shall submit to the Legislature, no later than September 30, 1983, a report which outlines the accomplishments of the office since January 1, 1981, describes the cost effectiveness of its programs, and recommends to the Legislature additional programs and policies which may be needed to further carry out the purposes of this division.

26706. This division shall remain in effect only until June 30, 1984, as as of such date is repealed, unless a later enacted statute which is chaptered on or before June 30, 1984, deletes or extends such date.

CHAPTER 654

An act to amend Section 13510 of, and to add Section 13524 to, the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 13510 of the Penal Code is amended to read:

13510. For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may, from time to time, amend, rules establishing minimum standards, relating to physical, mental, and moral fitness, which shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, regularly employed and paid inspectors and investigators of a district attorney's office as defined in Section 830.1 who conduct criminal investigations, peace officer members of a district, in any city, county, city and county, or district receiving state aid pursuant to this chapter, and shall adopt, and may, from time to time, amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, regularly employed and paid inspectors and investigators of a district attorney's office as defined in Section 830.1 who conduct criminal investigations, and peace officer members of a district which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. All such rules shall be adopted and amended pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code.

SEC. 2. Section 13524 is added to the Penal Code, to read:

13524. Any county wishing to receive state aid pursuant to this chapter for the training of regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, shall include such request for aid in its application to the commission pursuant to Sections 13522 and 13523.

CHAPTER 655

An act to add Sections 25202.5, 25202.6, and 25202.7 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 25202.5 is added to the Health and Safety Code, to read:

25202.5. In addition to any other condition of a hazardous waste facilities permit imposed by the department pursuant to this chapter, the department may impose a requirement for the execution and recording of a written instrument which imposes a restrictive

covenant upon the present and future uses of all or part of the land on which the hazardous waste facility subject to the permit is located and on all or part of any adjacent land held by, or for the beneficial use of, the owners of the land on which the hazardous waste facility subject to the permit is located. Such restrictive convenant shall be no more restrictive than needed, as determined by the department, to protect the present or future public health and safety and shall not place any restriction on any such land that limits the use, modification, or expansion of an existing industrial or manufacturing facility or complex. Such an instrument shall be executed by all of the owners of such land and by the director, shall particularly describe the real property affected by the instrument, and shall be recorded by the owner in the county in which the land is located within 10 days of the date of execution. The covenant shall state that the land described in the instrument has been, or will be, the site of a hazardous waste facility or is adjacent to the site of such a facility, and may impose such use restrictions as the department deems necessary to protect the present or future public health. Such restrictions may include restrictions upon activities on, over, or under the land, including, but not limited to, a prohibition against building, filling, grading, excavating, or mining without the written permission of the director. A certified copy of the recorded covenant shall be sent to the department upon recordation. Notwithstanding any other provision of law, except as provided in Section 25202.6, a covenant executed pursuant to this section shall run with the land from the date of recordation and shall be binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees. The covenant shall be enforceable by the department pursuant to Article 8 (commencing with Section 25180).

SEC. 2. Section 25202.6 is added to the Health and Safety Code, to read:

25202.6. The owner of land subject to a restrictive covenant, or other provision or statement in a written instrument, required by the department pursuant to Section 25202.5, may make a written request of the department to remove such covenant, provision, or statement. Upon receipt of such a request and supporting material, the department shall promptly review the need for such covenant, provision, or statement and, when appropriate, and after a public hearing, shall agree to modify or remove such covenant, provision, or statement to make certain that it continues to be no more restrictive than necessary to protect the public health and safety. When the department agrees to modify or remove such a covenant, provision, or statement, the director and all of the owners of such land shall execute an instrument that reflects such agreement, shall particularly describe the real property affected by the instrument, and the owner shall record the instrument in the county in which such land is located within 10 days of the date of execution.

SEC. 3. Section 25202.7 is added to the Health and Safety Code,

to read:

25202.7. Any decision of the department pursuant to either Section 25202.5 or Section 25202.6 shall be subject to review by a court of competent jurisdiction as provided in Section 1094.5 of the Code of Civil Procedure and shall be upheld if the court finds the decision is supported by substantial evidence.

CHAPTER 656

An act to amend Section 13260 of the Water Code, relating to water quality.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 13260 of the Water Code is amended to read:

13260. (a) Any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, and any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste or proposing to discharge waste outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region, shall file with the regional board of that region a report of the discharge, containing such information as may be required by the board. No report need be filed when such requirement is waived pursuant to Section 13269.

(b) Every such person discharging waste shall file with the regional board of that region a report of any material change or proposed change in the character, location, or volume of the discharge.

(c) Each report under this section shall be sworn to or submitted under penalty of perjury.

(d) Each report under this section shall be accompanied by a filing fee of not to exceed ten thousand dollars ($10,000) according to a reasonable fee schedule established by the state board. Fees shall be calculated on the basis of total flow, volume, number of animals, or area involved and shall be reasonably related to the costs to the regional board.

(e) When a report filed by any person pursuant to this section is not adequate in the judgment of the regional board, the board may require such person to supply such additional information as it deems necessary.

CHAPTER 657

An act making an appropriation in augmentation of Item 164 of the Budget Act of 1979, relating to state highways, and to take effect immediately, usual current expenses.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. The sum of twenty million dollars ($20,000,000) is hereby appropriated to the Department of Transportation from the State Highway Account in the State Transportation Fund in augmentation of the appropriation made by Item 164 of the Budget Act of 1979 (Chapter 259, Statutes of 1979). Such appropriation may only be expended for maintenance pursuant to category (a) of Item 164 for purposes related to cleanup and repair of storm damage.

SEC. 2. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 658

An act to amend Sections 69591 and 74001 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 69591 of the Government Code is amended to read:

69591. In the County of Orange there shall be 46 judges of the superior court.

SEC. 2. Section 74001 of the Government Code is amended to read:

74001. There shall be the following number of judges: in the North Orange County Municipal Court, 10, and on July 1, 1978, 11; in the Central Orange County Municipal Court, 12, and on January 1, 1978, 13; in the West Orange County Municipal Court, nine, provided, that at such time as the Orange County Board of Supervisors finds there are sufficient funds for 10 judges and adopts a resolution to that effect, there shall be 10 judges; in the Orange County Harbor Municipal Court, six; and in the South Orange County Municipal Court, four.

SEC. 3. The sum of three hundred twenty-nine thousand four

hundred ten dollars ($329,410) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement as follows:

(a) For block grants in augmentation of Item 22 of the Budget Act of 1980	$240,000
(b) For the state's share of superior court judges' salaries in augmentation of Item 21 of the Budget Act of 1980	89,410

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section except that provided for by Section 3 of this act, nor shall there be any appropriation made by this act other than that made by Section 3 of this act because this act is in accordance with the request of a local govermental entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 659

An act to add and repeal Section 12520 of the Water Code, relating to water supplies.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 12520 is added to the Water Code, to read:

12520. In recognition of the surplus water currently available in the Colorado River and expected to be available for the next several years, the board, in consultation with the department, shall coordinate the efforts of all parties, including any person or any local, state, federal, or other agency, to use such surplus water currently available from the Colorado River system to develop additional water and energy supplies. The department shall supply any and all assistance that the board requests or deems appropriate.

This section shall not apply to any decision made by the board after December 31, 1985, or after the date the Central Arizona Water Project becomes operational as determined by the board, whichever date is the earlier, and is repealed as of such date.

Nothing in this section shall be deemed to alter or amend any existing water contract pursuant to agreements with an agency handling a water delivery contract with the Secretary of the Interior or existing Colorado River contractors. Nothing in this section shall affect any prior or paramount water rights.

CHAPTER 660

An act to amend Sections 7153.1, 7153.2, 7153.8, 7157, and 7184 of, to add Section 7153.4 and 7189 to, and to repeal Section 7153.4 of, the Financial Code, relating to savings and loan associations.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 7153.1 of the Financial Code is amended to read:

7153.1. An association may make amortized loans upon the security of improved real property in an amount not in excess of 80 percent of the appraised value of such real property if one of the following conditions is met:

(a) The real property is a condominium, as defined in Civil Code Section 783, designed for one-family occupancy.

(b) The real property is a residential unit designed for one-family occupancy whose owner owns, directly or through a nonprofit cooperative housing organization, an undivided interest in the underlying real estate, including property owned in common with others which contributes to the use and enjoyment of the structure or unit.

(c) The real property is a residential unit, designed for one-family occupancy, within a cluster-type residential project, in which the interest in such real property is coupled with an undivided interest in common in a portion of the remaining real property on which such project is located.

No loan on the security of real property in a condominium project, community apartment project or cluster-type residential project, shall be made under the sole authority of this section if the aggregate principal amount of all loans by the association on the security of the project, or any part thereof, would exceed an amount equal to 1 percent of the association's assets, unless (1) binding contracts have been entered into for the bona fide sale of not less than a majority of the residential units in the project or (2) the loan is approved by the commissioner.

SEC. 2. Section 7153.2 of the Financial Code is amended to read:

7153.2. An association may make amortized loans upon the security of real property in an amount in excess of 80 percent of the appraised value of such real property, if:

(a) There is located thereon only a structure designed for residential use for one, two, three, or four families or a structure designed for residential use for one, two, three, or four families and structures ancillary to such residential use or if such real property is of the type described in subdivision (a), (b), or (c) of Section 7153.1;

(b) The amount of the loan does not exceed the lesser of: (1) for

one-family structures and real property of the type described in subdivision (a), (b), or (c) of Section 7153.1, ninety-three thousand seven hundred fifty dollars ($93,750) and, for two-, three- or four-family structures, the greater of sixty thousand dollars ($60,000) per dwelling unit or the amount allowable in or under Section 207(c)(3) of the National Housing Act, as amended (12 U.S.C. Section 1713(c)(3)), or (2) 90 percent of the appraised value of the real property, or (3) if the loan is made to finance the purchase of the real property, 90 percent of the purchase price;

(c) If the loan is sought or assumed for the purpose of enabling a purchaser to acquire the security property, the purchaser and the vendor or vendors have jointly executed a certification in writing stating the purchase price of the security property and the items comprising such price;

(d) The association has made or obtained, prior to approval of the loan, a written report on the credit standing of the borrower and the financial ability of such borrower to undertake and pay off the obligation involved in the loan;

(e) The borrower, including a purchaser who assumes the loan, has certified in writing that he intends to occupy at least one of the dwelling units of the property as his home and that no lien or charge upon the property other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan, or, in the case of real property of the type described in subdivisions (a), (b), and (c) of Section 7153.1, liens or charges to secure unpaid assessments for management and common expenses, has been given or executed by him; and

(f) The loan requires repayment in monthly installments and each such payment includes the monthly proration of annual taxes in advance until the unpaid balance of such loan shall have been reduced to 80 percent of the appraised value or the purchase price, if any, whichever is less, of such property.

No association shall have such investments under this section aggregating at any one time more than 50 percent of its total assets. Whenever the unpaid balance of any such loan made under this section shall have been reduced to 80 percent of the appraised value or the purchase price if any, whichever is less, of such property, such loan may be removed from the above-imposed limitation of assets.

A loan under this section may be made to finance the construction of a structure described in the first paragraph hereof, but the amount by which such a loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed. If the loan is made to finance construction of such structure for sale the borrower need not certify that he intends to occupy the property as his home, but the amount by which such loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed, the property has been sold and title has been conveyed to a purchaser who has executed an agreement with the association

assuming and agreeing to pay the loan and there is then compliance with all the provisions of the first paragraph hereof.

SEC. 3. Section 7153.4 of the Financial Code is repealed.

SEC. 4. Section 7153.4 is added to the Financial Code, to read:

7153.4. (a) An association may make amortized loans upon the security of a cooperative housing development. The term "cooperative housing development" means real property primarily comprising a group of single-family dwellings owned by a nonprofit cooperative housing organization. The following conditions must be met for such loans:

(1) Units equal to 90 percent of the value or purchase price of the development, whichever is greater, are presold to bona fide purchasers.

(2) The cooperative housing development shall maintain reserves at least equal to those required for comparable developments insured by the Federal Housing Administration.

(3) The maximum loan amount for the development shall be the sum of the applicable maximum loan amounts for each unit.

(b) An association may make amortized loans secured by individual cooperative units, under Section 7153, 7153.2, or 7153.8, provided the loans are made on the following security:

(1) A first security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a nonprofit cooperative housing organization.

(2) An assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by the organization.

SEC. 5. Section 7153.8 of the Financial Code is amended to read:

7153.8. The limitation of 90 percent set forth in subdivision (b) of Section 7153.2 of the Financial Code shall be 95 percent in the case of loans secured by single-family and two-family dwellings or a structure designed for one- or two-family residential use and structures ancillary to such residential use, or if such real property is of the type described in subdivision (a), (b), or (c) of Section 7153.1, and with respect to which the requirements set forth in subdivisions (a), (c), (d), (e), and (f) of Section 7153.2 are met, and further, with respect to which the following additional requirements are met:

(a) The amount of the loan does not exceed the lesser of:

(1) For one-family structures and real property of the type described in subdivision (a), (b) or (c) of Section 7153.1, seventy-five thousand dollars ($75,000) and, for two-family structures, the amount allowable in or under Section 207(c) (3) of the National Housing Act, as amended (12 U.S.C. Section 1713(c) (3));

(2) Ninety-five percent of the appraised value or purchase price of the security property, whichever is less.

(b) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans made under this Section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in

excess of 90 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 25 percent of the association's assets unless prior approval to exceed 25 percent is given by the commissioner.

(c) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans under this section and Section 7153.2 and (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 50 percent of the association's assets.

(d) Either of the following conditions are met:

(1) That portion of the unpaid balance of such loan which is in excess of an amount equal to 90 percent of the value of the real estate is guaranteed or insured by a mortgage insurance company which has been determined to be a "qualified private insurer" by the Federal Home Loan Mortgage Corporation.

(2) The association establishes and maintains a specific reserve with respect to such loan equal to 1 percent of the unpaid principal balance thereof until the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate security, whichever is less, determined at the time the loan was made.

SEC. 6. Section 7157 of the Financial Code is amended to read:

7157. (a) An association may make loans secured by the pledge of its shares or investment certificates to the extent of not more than 90 percent of the value of such shares or investment certificates at the time of making the loan. Any loans, which are wholly secured by the pledge of such shares or investment certificates, and the interest and arrearages due or accrued on such loans, may be repaid at any time without the payment of any premium or bonus interest, and upon such payment of the loan the security pledged therefor shall be surrendered.

(b) Where the sole and express purpose for the use of the proceeds of a loan authorized by subdivision (a) is to invest in a money market certificate of ten thousand dollars ($10,000) or more, the percentage limitation stated in subdivision (a) shall not apply. The borrower may borrow up to an amount not to exceed 50 percent of the money market certificate in which the proceeds of the loan are invested and no further loan shall be made on the security of that money market certificate.

SEC. 7. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(b) Shall not be for a period in excess of 20 years.

(c) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 8. Section 7189 is added to the Financial Code, to read:

7189. An association may make first lien loans guaranteed under the Farmers Home Administration Rural Housing Program on the security of residential real property, subject to the following limitations:

(a) The Farmers Home Administration shall guarantee at least 80 percent of the principal amount and accrued interest of each loan made under the program;

(b) The loan terms must be acceptable to the Farmers Home Administration;

(c) The aggregate outstanding balance of the nonguaranteed portions of all loans made under the program and held by an association shall not exceed the greater of 2.5 percent of its total assets or one-half of its statutory net worth.

An association shall maintain records to verify compliance with the requirements for each loan made under this section, including the loan note guarantee, lender's agreement and documentation that the loan limitation has not been exceeded.

CHAPTER 661

An act to add Section 1463.16 to the Penal Code, and to amend Sections 23101, 23102, 23103, and 23104 of the Vehicle Code, relating to public offenses.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 1463.16 is added to the Penal Code, to read:

1463.16 Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23101, 23102, 23103, or 23104 of the Vehicle Code shall be deposited in a special account for

exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been developed and certification is available, programs must be certified by the Department of Alcohol and Drug Programs or have made application for certification to be eligible for funding under this section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

It is the specific intent of the Legislature that funds expended under this part shall be used for ongoing alcoholism program services as well as for contracts with private nonprofit organizations to upgrade facilities to meet state certification and licensing standards and federal nondiscrimination regulations relating to accessibility for handicapped persons.

Counties may retain up to 5 percent of the funds collected to offset administrative costs of collection and disbursement. The State Department of Alcohol and Drug Programs may charge a fee to offset costs of certification of programs.

SEC. 2. Section 23101 of the Vehicle Code is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than three hundred twenty dollars ($320) nor more than five thousand dollars ($5,000).

(d) If any person is convicted of an offense under this section within five years of a prior conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000). If any person is convicted of an offense under this section within five years

of a prior conviction of a violation of this section or Section 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000).

(e) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

SEC. 3. Section 23101 of the Vehicle Code, as amended by Senate Bill No. 1429 of the 1980 Regular Session, is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than three hundred fifty-five dollars ($355) nor more than five thousand dollars ($5,000).

(d) If any person is convicted of an offense under this section within five years of a prior conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 5 days but not more

than one year and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000). If any person is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000).

(e) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred fifty-five dollars ($355), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 4. Section 23101 of the Vehicle Code, as added by Senate Bill No. 1429 of the 1980 Regular Session, is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars

($5,000).

(d) If any person is convicted of an offense under this section within five years of a prior conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000). If any person is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000).

(e) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall become operative on July 1, 1982.

SEC. 5. Section 23102 of the Vehicle Code is amended to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by fine of not less than three hundred twenty dollars ($320) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however,

any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than two hundred twenty dollars ($220) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted of an offense under this section within five years of a prior conviction of an offense under this section or Section 23105 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000). Any person convicted of an offense under this section within five years of a prior conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000).

(e) If any person is convicted of an offense under this section within five years of a prior conviction under this section or under Section 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than one thousand dollars ($1,000). If any person is convicted of an offense under this section within five years of a prior conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000).

(f) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction under this section or Section 23101, 23105, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was

made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

SEC. 6. Section 23102 of the Vehicle Code, as amended by Senate Bill No. 1429 of the 1980 Regular Session, is amended to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by fine of not less than three hundred fifty-five dollars ($355) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than two hundred fifty-five dollars ($255) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted of an offense under this section within five years of a prior conviction of an offense under this section or Section 23105 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000). Any person convicted of an offense under this section within five years of a prior conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000).

(e) If any person is convicted of an offense under this section within five years of a prior conviction under this section or under Section 23105 and is granted probation, it shall be a condition of

probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least three hundred fifty-five dollars ($355) but not more than one thousand dollars ($1,000). If any person is convicted of an offense under this section within five years of a prior conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000).

(f) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction under this section or Section 23101, 23105, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least three hundred fifty-five dollars ($355), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction it shall be conclusively presumed that such order was made only for the reasons specified in such order and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 7. Section 23102 of the Vehicle Code, as added by Senate Bill No. 1429 of the 1980 Regular Session, is amended to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by fine of not less than three hundred twenty dollars ($320) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than two hundred twenty dollars ($220) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted of an offense under this section within five years of a prior conviction of an offense under this section or Section 23105 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000). Any person convicted of an offense under this section within five years of a prior conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000).

(e) If any person is convicted of an offense under this section within five years of a prior conviction under this section or under Section 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than one thousand dollars ($1,000). If any person is convicted of an offense under this section within five years of a prior conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000).

(f) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction under this section or Section 23101, 23105, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the

minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction it shall be conclusively presumed that such order was made only for the reasons specified in such order and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall become operative on July 1, 1982.

SEC. 8. Section 23103 of the Vehicle Code is amended to read:

23103. Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than ninety-five dollars ($95) nor more than two hundred fifty dollars ($250) or by both such fine and imprisonment, except as provided in Section 23104.

SEC. 9. Section 23103 of the Vehicle Code, as amended by Senate Bill No. 1429 of the 1980 Regular Session, is amended to read:

23103. Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and upon conviction thereof shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than one hundred thirty dollars ($130) nor more than five hundred dollars ($500) or by both such fine and imprisonment, except as provided in Section 23104.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 10. Section 23103 of the Vehicle Code, as added by Senate Bill No. 1429 of the 1980 Regular Session, is amended to read:

23103. Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and upon conviction thereof shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than ninety-five dollars ($95) nor more than two hundred fifty dollars ($250) or by both such fine and imprisonment, except as provided in Section

23104.

This section shall become operative on July 1, 1982.

SEC. 11. Section 23104 of the Vehicle Code is amended to read:

23104. Whenever reckless driving of a vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred seventy dollars ($170) nor more than five hundred dollars ($500) or by both.

SEC. 12. Section 23104 of the Vehicle Code, as amended by Senate Bill No. 1429 of the 1980 Regular Session, is amended to read:

23104. Whenever reckless driving of a vehicle proximately causes bodily injury to any person, the person driving the vehicle shall upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than two hundred five dollars ($205) nor more than five hundred dollars ($500) or by both.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 13. Section 23104 of the Vehicle Code, as added by Senate Bill No. 1429, is amended to read:

23104. Whenever reckless driving of a vehicle proximately causes bodily injury to any person, the person driving the vehicle shall upon conviction thereof be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred seventy dollars ($170) nor more than five hundred dollars ($500) or by both.

This section shall become operative on July 1, 1982.

SEC. 14. It is the intent of the Legislature, if this bill and Senate Bill 1429 are both chaptered and become effective on or before January 1, 1981, Senate Bill 1429 amends, repeals, and adds Sections 23101, 23102, 23103, and 23104 of the Vehicle Code and this section amends those sections, and this bill is chaptered after Senate Bill 1429, that Sections 23101, 23102, 23103, and 23104 of the Vehicle Code, as amended, repealed, and added by Senate Bill 1429, be further amended on the effective date of this act in the form set forth in Sections 3, 4, 6, 7, 9, 10, 12, and 13 of this act to incorporate the changes in Sections 23101, 23102, 23103, and 23104 proposed by this bill. Therefore, if this bill and Senate Bill 1429 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1429 is chaptered before this bill and amends, repeals, and adds Sections 23101, 23102, 23103, and 23104, Sections 3, 4, 6, 7, 9, 10, 12, and 13 of this act shall become operative on the effective date of this act and Sections 2, 5, 8, and 11 of this act shall not become operative.

SEC. 15. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on

or performed by this act.

CHAPTER 662

An act to amend Section 12.1 of the Alameda County Flood Control and Water Conservation District Act (Chapter 1275 of the Statutes of 1949), relating to districts.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 12.1 of the Alameda County Flood Control and Water Conservation District Act (Chapter 1275, Statutes of 1949) is amended to read:

12.1. The board also may prescribe, revise, and collect fees or charges for facilities furnished or to be furnished to any area, new building, improvement or structure that will benefit from any flood control, storm drainage, water conservation or supply or sewerage system constructed or to be constructed in a zone of the district. Revenues derived under this section shall be used for the acquisition, construction, engineering, reconstruction, maintenance, and operation of the flood control, storm drainage, water, or sewerage facilities of the said zone, or to reduce the principal or interest of any bonded indebtedness thereof.

The board may also provide that any fees or charges collected pursuant to Section 12.2 of this act may be credited to or deducted from any fees or charges imposed under this section.

The board may also prescribe, revise, and collect fees or charges for land development services provided by the district, not to exceed the reasonable cost of the services provided to the recipient thereof. "Land development services" means tract plan checking for (1) connections to flood control facilities, (2) hydraulic capacity, (3) erosion control, and (4) other matters related to flood control and watershed protection. The district shall not levy such a fee or charge for services rendered for the benefit of a federal or state agency or for the benefit of a city, a county, a city and county, a district, a public authority, or other political subdivision of the state.

CHAPTER 663

An act to amend Section 15453 of, and to add Section 15461 to, the Government Code, relating to the financing of health care facilities, and making an appropriation therefor.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 15453 of the Government Code is amended to read:

15453. The total amount of bonds which may be outstanding at any one time under this part shall not exceed seven hundred sixty-seven million dollars ($767,000,000). Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon have been deposited in trust shall not be deemed outstanding for purposes of this section.

SEC. 2. Section 15461 is added to the Government Code, to read:

15461. Of the initial seven hundred sixty-seven million dollars ($767,000,000) of bonds outstanding, as authorized by this part, not less than one hundred seventeen million dollars ($117,000,000) shall be made available to participating health institutions which seek the financing or refinancing of projects providing services predominantly to existing members and reasonably anticipated members of health maintenance organizations which are qualified pursuant to Title XIII of the Public Health Service Act (42 U.S.C., Sec. 300e et seq.).

CHAPTER 664

An act to amend Section 62006 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 62006 of the Education Code is amended to read:

62006. The Legislature shall begin immediately a detailed study which shall insure that each funding source and program be scrutinized regarding, but not limited to, the:

(1) Appropriateness of identification formulas in determining which children have special needs.

(2) Appropriateness of allocation formulas and adequacy of funding.

(3) Effectiveness of programs.

(4) Appropriateness of local control.

(5) Appropriateness of state level involvement in monitor, review, and auditing to assure that funds are being used efficiently, economically, and legally.

(6) Appropriateness of costs of administration at all levels of operating these programs.

(7) Appropriateness of Department of Education administration of categorical programs.

(8) Characteristics of the target population being served.

(9) Need for the program.

(10) Purpose and intent of the program.

SEC. 2. Section 62006 of the Education Code, as amended by Section 1 of Assembly Bill 2191, is amended to read:

62006. The Legislature shall begin immediately a detailed study which shall insure that each funding source and program be scrutinized regarding, but not limited to, the:

(1) Appropriateness of identification formulas in determining which children have special needs.

(2) Appropriateness of allocation formulas and adequacy of funding.

(3) Effectiveness of programs.

(4) Appropriateness of local control.

(5) Appropriateness of state level involvement in monitor, review, and auditing to assure that funds are being used efficiently, economically, and legally.

(6) Appropriateness of costs of administration at all levels of operating these programs.

(7) Appropriateness of Department of Education administration of categorical programs.

(8) Interrelationships between and among state and federal categorical programs, as appropriate.

(9) Characteristics of the target population being served.

(10) Need for the program.

(11) Purpose and intent of the program.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 2191 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 62006 of the Education Code, and this bill is chaptered after Assembly Bill 2191, that Section 62006 of the Education Code, as amended by Section 1 of Assembly Bill 2191, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 62006 proposed by this bill. Therefore, if this bill and Assembly Bill 2191 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2191 is chaptered before this bill and amends Section 62006, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to clarify the scope of the study prescribed by Chapter 1 (commencing with Section 62000) of Part 34 of the Education Code

at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 665

An act to amend Sections 11019 of the Government Code, and to amend Sections 9406, 9412, and 9413 of the Welfare and Institutions Code, relating to seniors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 11019 of the Government Code is amended to read:

11019. (a) Any department specified in subdivision (b) may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and such laws, during the fiscal year to the private nonprofit agency. Advances in excess of 25 percent may be made on contracts financed by a federal program when such advances are not prohibited by federal guidelines. Advance payments may be provided for services to be performed under any contract with a total annual contract amount of two hundred thousand dollars ($200,000) or less, or which the State Department of Finance determines has been entered into with any community-based private nonprofit agency with modest reserves and potential cash flow problems. No advance payment shall be granted if the total annual contract exceeds two hundred thousand dollars ($200,000), without the prior approval of the State Department of Finance.

The specific departments mentioned in subdivision (b) shall develop a plan to establish control procedures for advance payments. Each such plan shall include a procedure whereby the department determines whether or not an advance payment is essential for the effective implementation of a particular program being funded. Each such plan is required to be approved by the Department of Finance.

(b) Subdivision (a) shall apply to the Department of Aging, the State Department of Alcohol and Drug Abuse, the Department of Corrections, the Employment Development Department, the State Department of Health Services, the State Department of Mental

Health, the Department of Rehabilitation, the State Department of Social Services, the Department of the Youth Authority, and the Department of Education.

Subdivision (a) shall also apply to the Health and Welfare Agency which may make advance payments, pursuant to the requirements of that subdivision, to multipurpose senior services projects as established in Sections 9400 to 9413, inclusive, of the Welfare and Institutions Code.

SEC. 2. Section 9406 of the Welfare and Institutions Code is amended to read:

9406. "Older person" means a person of age 65 years or older.

SEC. 3. Section 9412 of the Welfare and Institutions Code is amended to read:

9412. The agency shall do the following:

(a) Enter into agreements and negotiated contracts with any nonprofit organization or governmental entity to operate the one or more of the selected pilot projects consistent with the criteria adopted pursuant to Section 9411. In letting such contracts, the agency shall not anticipate future appropriations.

(b) Make grants to pilot projects from available funds.

(c) Monitor pilot projects.

(d) Cause the pilot projects to be evaluated in accordance with the established criteria.

(e) Seek and utilize any available federal, state, or private funds which may be available for carrying out the purposes of this chapter.

Notwithstanding any other provision of law, pilot projects established pursuant to this chapter may contract with the Director of the State Department of Health Services as Medi-Cal pilot programs pursuant to Chapter 8 (commencing with Section 14200) of Part 3 of Division 9. Contracts with such pilot projects shall be deemed to be for the purposes specified in Section 14494, and may utilize funds appropriated from the Health Care Deposit Fund pursuant to Section 14157.

(f) Request and secure such waivers of single-state-agency requirements as are necessary under the Federal Intergovernmental Cooperation Act of 1968 (P.L. 90-577), and such other federal requirements as are necessary in order to utilize available federal funds for the purposes of this chapter.

(g) Assist in coordinating pilot projects with local governmental programs and services for older persons.

(h) Submit to the Legislature and the Governor an initial report on the administration of this chapter by April 30, 1979, and subsequent reports each April 30 thereafter until termination of the project on the administration of this chapter. Such reports shall include a description and evaluation of the pilot projects, characteristics of the persons served, the information required for evaluations under subdivision (i) of Section 9411, and recommendations for administrative and legislative changes.

SEC. 4. Section 9413 of the Welfare and Institutions Code is

amended to read:

9413. This chapter shall remain in effect only until June 30, 1983, and on such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1983, deletes or extends such date. In this regard, it is the intent of the Legislature to evaluate the reports submitted pursuant to subdivision (h) of Section 9412 to determine whether pilot projects conducted under this chapter have had sufficient positive impact to warrant thei- continuation.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that multipurpose senior services projects which qualify may receive adequate funding to enable them to provide the necessary services to a significant number of older persons, it is essential that this act go into immediate effect.

CHAPTER 666

An act to amend Sections 3541 and 3542 of the Government Code, and to amend Section 6 of Chapter 1202 of the Statutes of 1979, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 3541 of the Government Code is amended to read:

3541 (a) There is in state government the Public Employment Relations Board which shall be independent of any state agency and shall consist of three members. The members of the board shall be appointed by the Governor by and with the advice and consent of the Senate. One of the original members shall be chosen for a term of one year, one for a term of three years, and one for a term of five years. Thereafter terms shall be for a period of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Members of the board shall be eligible for reappointment. The Governor shall select one member to serve as chairperson. A member of the board may be removed by the Governor upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the commission, and two members of the board shall at all times constitute a quorum.

(c) Members of the board shall hold no other public office in the

state, and shall not receive any other compensation for services rendered.

(d) Each member of the board shall be paid an annual salary of forty-two thousand five hundred dollars ($42,500). In addition to his salary, each member of the board shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his duties, subject to the rules of the State Board of Control relative to the payment of such expenses to state officers generally.

(e) The chairperson shall appoint an executive director who shall be the chief administrative officer. The executive director shall appoint such other persons as may, from time to time, be deemed necessary for the performance of the board's administrative functions, prescribe their duties, fix their compensation, and provide for reimbursement of their expenses in the amounts made available therefor by appropriation. The executive director shall be a person familiar with employer-employee relations. The executive director shall be subject to removal at the pleasure of the chairperson. The Governor shall appoint a general counsel, upon the recommendation of the board, to assist the board in the performance of its functions under this chapter. The general counsel shall serve at the pleasure of the board.

(f) The executive director and general counsel serving the board on December 31, 1977, shall become employees of the Public Employment Relations Board and shall continue to serve at the discretion of the board. A person so employed may, independently of the Attorney General, represent the board in any litigation or other matter pending in a court of law to which the board is a party or in which it is otherwise interested.

(g) The Governor shall appoint one legal adviser for each member of the board upon the recommendation of such board member. Each such appointee shall serve at the pleasure of the recommending board member and shall receive a salary as shall be fixed by the board with the approval of the Department of Finance.

(h) Attorneys serving the board on May 19, 1978, shall not be appointed as legal advisers to board members pursuant to subdivision (g) until such time as they have attained permanent civil service status.

(i) When the positions exempt from civil service which are authorized by this act are created, the Department of Finance shall delete the corresponding civil service positions in the board's 1978–79 budget.

SEC. 2. Section 3542 of the Government Code is amended to read:

3542. (a) No employer or employee organization shall have the right to judicial review of a unit determination except: (1) when the board in response to a petition from an employer or employee organization, agrees that the case is one of special importance and joins in the request for such review; or (2) when the issue is raised as a defense to an unfair practice complaint. A board order directing

an election shall not be stayed pending judicial review.

Upon receipt of a board order joining in the request for judicial review, a party to the case may petition for a writ of extraordinary relief from the unit determination decision or order.

(b) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, may petition for a writ of extraordinary relief from such decision or order.

(c) Such petition shall be filed in the district court of appeal in the appellate district where the unit determination or unfair practice dispute occurred. The petition shall be filed within 30 days after issuance of the board's final order, order denying reconsideration, or order joining in the request for judicial review, as applicable. Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless such time is extended by the court for good cause shown. The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying, or setting aside the order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, are conclusive. The provisions of Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded herein, apply to proceedings pursuant to this section.

(d) If the time to petition for extraordinary relief from a board decision has expired, the board may seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unit determination or unfair practice case occurred. If, after hearing, the court determines that the order was issued pursuant to procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce such order by writ of mandamus. The court shall not review the merits of the order.

SEC. 3. Section 6 of Chapter 1202 of the Statutes of 1979 is amended to read:

Sec. 6. The State Controller shall take such steps as may be necessary to fully implement the provisions of Section 22017 of the Government Code by December 31, 1982. The Controller shall reimburse employees for amounts withheld on the basis of sick leave pay, on at least an annual basis, after the approved sick leave notification has been submitted.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the provisions of this act to effect technical changes in the Statutes of 1979, it is necessary that this act take effect immediately.

CHAPTER 667

An act to amend Sections 31107, 31260, 31351, 31352, 31404, and 31405 of the Public Resources Code, relating to the State Coastal Conservancy.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 31107 of the Public Resources Code is amended to read:

31107. Notwithstanding other provisions of law, the Director of General Services, when so requested by the conservancy, shall lease, rent, sell, exchange, or otherwise transfer any land, interest therein, or option acquired pursuant to this division, pursuant to an implementation plan approved by the conservancy. Leases entered into pursuant to the provisions of this division shall not provide for a period longer than 10 years. Proceeds from any such lease, rental, sale, exchange, or transfer of land, interest therein, or option thereon, shall be deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purpose of funding the programs specified in this division.

SEC. 2. Section 31260 of the Public Resources Code is amended to read:

31260. As part of an approved coastal resource enhancement project, the conservancy may fund up to 40 percent of any state agency land acquisition costs and up to 100 percent of any local agency costs of land acquisition.

SEC. 3. Section 31351 of the Public Resources Code is amended to read:

31351. The conservancy shall cooperate with the commission, with other state and local public agencies, and with nonprofit organizations in ensuring the reservation of lands for park, recreation, fish and wildlife habitat, historical preservation, or scientific study required to meet the policies and objectives of the California Coastal Act of 1976 (commencing with Section 30000) or a certified local coastal plan or program.

SEC. 4. Section 31352 of the Public Resources Code is amended to read:

31352. In the event that any state or local public agency or any nonprofit organization is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site as

provided in Section 31351, the conservancy may acquire and hold the site for subsequent conveyance to the appropriate public agency or nonprofit organization. The conservancy may provide such technical assistance as is required to aid public agencies and nonprofit organizations in completing such acquisition and related functions.

SEC. 5. Section 31404 of the Public Resources Code is amended to read:

31404. When another local public agency is unable or unwilling to take title to an area required for public access to and along the coastline, the department or the conservancy may accept title to such an area. The department or the conservancy, however, shall not be required to open any area for public use when, in its estimation, the benefits of public use would be outweighed by the costs of development and maintenance. The department or the conservancy shall make a determined effort to identify local public agencies and nonprofit organizations which will accept responsibility for maintenance and liability for public accessways which are located outside of the state park system. The department or the conservancy may lease any public access site to a public agency or nonprofit organization; provided, however, that the conditions of such transfer guarantee public use of the site for access to coastal resources.

SEC. 6. Section 31405 of the Public Resources Code is amended to read:

31405. The department or the conservancy may accept, from any public agency or nonprofit organization, fees collected for purposes of providing public access to coastal resources. Any funds collected from such source shall be expended by the department or the conservancy for the sole purpose of acquisition, development, and maintenance of public accessways to the coastline. To the maximum extent possible, such fees shall be expended in the general area where they are collected or in areas where public access to and along the coastline is clearly deficient. The department or the conservancy may transfer funds, including such fees, to a local public agency or nonprofit organization for the purposes of acquisition of sites for public access to and along the coastline.

CHAPTER 668

An act to add Sections 50642 and 50643 to the Health and Safety Code, relating to community redevelopment housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 50642 is added to the Health and Safety Code, to read:

50642. Pursuant to the final consent decree issued by the United States District Court for the Southern District of California in Civil Number 72-355-HP, the department shall actively recruit, and make every effort to hire, persons who are especially and experientially familiar with the corridor of Interstate Route 105, in conjunction with the replacement of housing units being removed therefrom.

SEC. 2. Section 50643 is added to the Health and Safety Code, to read:

50643. In order to meet the requirements of Section 50642, the use of localized or spot examinations is encouraged as requested by the department pursuant to the requirements of the State Personnel Board, in order to employ personnel for this program. The localized or spot examinations shall be for employee classes approved by the State Personnel Board and notice of the department's examinations and the opportunity to compete in the examinations shall be provided to all persons on existing employment lists of the State Personnel Board for all employee classes deemed necessary by the department. The department shall encourage, to the extent possible, the participation in the examinations by persons residing in and familiar with the corridor area of the Interstate Route 105.

Any persons or employees who allege that they have been adversely affected by any examinations or appointments made by the department pursuant to Sections 50642 and 50643, shall have the right of appeal to the State Personnel Board which, after an opportunity to be heard by all relevant parties involved, may issue any order for the purpose of confirming that the examinations or appointments are consistent with the State Civil Service Act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The Century Freeway Housing Program is currently in progress and in order to be in compliance with the final consent decree issued by the United States District Court for the Southern District of California in Civil Number 72-355-HP, it is necessary that this act take effect immediately.

CHAPTER 669

An act to amend Section 4730.1 of the Health and Safety Code, relating to county sanitation districts.

[Approved by Governor July 19, 1980 Filed with
Secretary of State July 20, 1980]

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

SECTION 1. Section 4730.1 of the Health and Safety Code is amended to read:

4730.1. Notwithstanding the provisions of Section 4730, the resolution of intention to form the district and the order of formation of the district may provide that the governing body of the sanitation district shall be constituted in accordance with this section.

The governing body of a sanitation district is a board of directors composed of an odd number of not less than three members.

If the district includes no territory which is within a city, other sanitation district or public agency, the county board of supervisors is the board of directors.

If the district includes territory which is within a city or other sanitation district or public agency, the board of directors shall be composed of the presiding officer of the governing body of each such city, other sanitation district and public agency and the chairman of the county board of supervisors. If the chairman of the county board of supervisors and the presiding officer of the governing body of each such city, sanitation district and public agency constitute an even number, a member of the county board of supervisors appointed by such board of supervisors or, in the alternate as determined by the board of directors, a resident of the district elected by the registered voters of the district for a four-year term, shall be a member of the board of directors of the district. In any event, so long as the board of directors is composed of an odd number of directors, residents of the district, elected by the registered voters of the district for four-year terms, may be members of the board of directors, in a number as determined by the board of directors.

The district shall reimburse the county for any reasonable costs incurred by it for the conduct of elections required by the provisions of this section.

The governing body of each county, city, sanitation district and public agency having a representative on such board of directors may designate one of its members to act in the place of its regular member in his absence, inability or refusal to act.

The governing body of any such city, sanitation district or other public agency may designate a member of the county board of supervisors to serve as its representative member on the board of directors of the district in the place of the presiding officer of its governing body, in which case such supervisor shall have one vote for each such city, sanitation district and public agency represented by him or her.

"Public agency" as used in this section means any sanitary district, public utility district, resort district, county water district, municipal water district, sewer maintenance district or county maintenance

district, engaged in the collection, transportation, treatment or disposal of sewage or any other public agency empowered to and engaged in the collection, transportation, treatment or disposal of sewage.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

CHAPTER 670

An act to amend Section 655 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 655 of the Welfare and Institutions Code is amended to read:

655. (a) When any person has applied to the probation officer, pursuant to Section 653, to request commencement of juvenile court proceedings to declare a minor a ward of the court under Section 602 and the probation officer does not cause the affidavit to be taken to the prosecuting attorney pursuant to Section 653 within 21 court days after such application, the applicant may, within 10 court days after receiving notice of the probation officer's decision not to file a petition, apply to the prosecuting attorney to review the decision of the probation officer, and the prosecuting attorney may either affirm the decision of the probation officer or commence juvenile court proceedings.

(b) When any person has applied to the probation officer, pursuant to Section 653, to commence juvenile court proceedings to declare a minor a dependent child of the court or a ward of the court under Section 601 and the probation officer fails to file a petition within 21 court days after making such application, the applicant may, within 10 court days after receiving notice of the probation officer's decision not to file a petition, apply to the juvenile court to review the decision of the probation officer, and the court may either affirm the decision of the probation officer or order him or her to commence juvenile court proceedings.

CHAPTER 671

An act to amend Sections 440, 21100, and 21103 of, and to add Section 21100.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 440 of the Vehicle Code is amended to read:

440. An "official traffic control device" is any sign, signal, marking, or device, consistent with Section 21400, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

SEC. 2. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.

(e) Regulating traffic by means of any person given temporary or permanent appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at such locations as may require traffic direction for orderly traffic flow.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for such duty by the local authority.

(g) Licensing and regulating the operation of tow car service.

(h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

(j) Regulating the methods of deposit of garbage and refuse in streets and highways for collection by the local authority or by any person authorized by the local authority.

No person shall, however, be appointed pursuant to subdivision (e) unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which such person is to perform such duty, for review, a proposed

program of instruction for the training of a person for such duty, and unless and until the commissioner or such other chief law enforcement officer approves the proposed program. The commissioner or such other chief law enforcement officer shall approve such a proposed program if he reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in subdivision (e).

SEC. 3. Section 21100.1 is added to the Vehicle Code, to read:

21100.1. Whenever any city or county, by ordinance or resolution, permits, restricts, or prohibits the use of public or private highways pursuant to this article, any traffic control device erected by it on or after January 1, 1981, shall conform to the uniform standards and specifications adopted by the Department of Transportation pursuant to Section 21400.

SEC. 4. Section 21103 of the Vehicle Code is amended to read:

21103. No ordinance or resolution enacted under Section 21101 shall be effective until signs giving notice of the local traffic laws are posted at all entrances to the highway or part thereof affected.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 672

An act to amend Sections 50075 and 50077 of the Government Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 50075 of the Government Code is amended to read:

50075. It is the intent of the Legislature to provide all cities, counties, and districts with the authority to impose special taxes, pursuant to the provisions of Article XIII A of the California Constitution.

SEC. 2. Section 50077 of the Government Code is amended to read:

50077. (a) The legislative body of any city, county, or district

may, following notice and public hearing, propose by ordinance or resolution the adoption of a special tax. The ordinance or resolution shall include the type of tax and rate of tax to be levied, the method of collection, and the date upon which an election shall be held to approve the levy of such tax. Such proposition shall be submitted to the voters of the city, county, or district, or a portion thereof, and, upon the approval of two-thirds of the votes cast by voters voting upon such proposition, the city, county, or district may levy such tax.

(b) The legislative body of a city, or district, may provide for the collection of the special tax in the same manner and subject to the same penalty as, or with, other charges and taxes fixed and collected by the city, or district, or, by agreement with the county, by the county on behalf of the city, or district. If such special taxes are collected by the county on behalf of the city, or district, the county may deduct its reasonable costs incurred for such service before remittal of the balance to the city.

(c) As used in this section "district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The passage of Article XIII A of the California Constitution has limited the ability of special districts to fund necessary operations through property taxation, but makes provision for the imposition of special taxes by such districts. In order that special districts be granted the authority to impose special taxes during the 1980–81 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 673

An act to amend Section 18613 of the Health and Safety Code, relating to mobilehomes.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 18613 of the Health and Safety Code is amended to read:

18613. On and after July 1, 1974, a permit shall be obtained from the enforcement agency each time a mobilehome, which is required to be moved under a permit, is to be located or installed on any site for the purpose of human habitation or occupancy as a dwelling.

The contractor engaged to install the mobilehome shall obtain the

permit, except when the owner of the mobilehome proposes to perform the installation. When a contractor applies for a permit to install a mobilehome, he shall display a valid contractor's license. The contractor shall complete the installation of the mobilehome in accordance with the building standards published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the commission within the time limitations which shall be established by regulations of the commission. Such time limitations shall allow contractors a reasonable amount of time within which to complete mobilehome installations. If inspection of the mobilehome installation by the enforcement agency determines that the mobilehome cannot be approved for occupancy due to defective material, systems, workmanship, or equipment of the mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulations of the commission, to complete the installation after the defects in the mobilehome have been corrected. The enforcement agency shall immediately notify the department whenever any mobilehome cannot be approved for occupancy due to defects of the mobilehome. The report of notification shall indicate health and safety defects and, in the case of new mobilehomes, substantial defects of materials and workmanship. For purposes of this section, "substantial defects of materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components and shall not include alleged defects concerning color combinations or grade of materials used. If the mobilehome fails the installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the mobilehome. If, however, the installation fails inspection due to immediate hazards to the health or safety of the occupant, as determined by the enforcement agency, the mobilehome shall not be occupied.

Except as provided in Section 18930, the commission shall adopt regulations for such installations and the department shall adopt regulations which specify a standard form required to be used statewide by enforcement agencies as a certificate of occupancy or statement of installation acceptance. The department shall transmit a copy of the standard form to all enforcement agencies. An enforcement agency shall not be required to use the standard forms until their existing stock of forms for this purpose is depleted. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code relating to mobilehomes and mobilehome parks and the other regulations adopted by the commission pursuant to this section shall establish such requirements as the commission determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section. In adopting building regulations or adopting other regulations pursuant to this section, the

commission shall consider reassembly of the mobilehome, stabilizing devices and load-bearing supports, and utility connections and connectors.

The commission shall establish a schedule of fees for the permits required by this section commensurate with the cost of the enforcement of this section, the building standards published in the State Building Standards Code relating to mobilehomes and mobilehome parks, and the other regulations adopted pursuant to the provisions of this section. Where a city, county, or city and county is responsible for such enforcement, such a city, county, or city and county may establish a schedule of fees commensurate with the cost of enforcement. The fee for an installation permit shall in no case exceed forty dollars ($40). If, however, the mobilehome cannot be approved for occupancy when inspected, a reinspection fee not to exceed thirty dollars ($30) may be required. Permit fees and reinspection fees shall be paid to the enforcement agency by the permittee.

This section does not apply to recreational vehicles or commercial coaches.

CHAPTER 674

An act to amend Section 70 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 70 of the Revenue and Taxation Code is amended to read:

70. (a) "Newly constructed" and "new construction" means:

(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

(2) Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use.

(b) Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture.

(c) Notwithstanding the provisions of subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction" does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially

equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, which is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion which exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1.

(d) Notwithstanding the provisions of subdivisions (a) and (b), where real property must be improved to comply with local ordinances on seismic safety, "newly constructed" and "new construction" does not mean any reconstruction or improvement of the real property, or portion thereof, to comply with such local ordinance. The governing body which enacted such a local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body which specifies that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or improves his or her real property in accordance with said ordinance, and such certificate of compliance shall be filed by the property owner with the county assessor on or before the following April 15. The provisions of this subdivision shall not apply to any real property for which such a certificate is not filed.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

SEC. 3. The provisions of this act shall become operative only if Assembly Constitutional Amendment No. 3 of the 1979–1980 Regular Session of the Legislature is approved by the voters.

CHAPTER 675

An act to amend Section 13353 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 13353 of the Vehicle Code, as amended by Chapter 67 of the Statutes of 1980, is amended to read:

13353. (a) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood if lawfully arrested for

any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe such person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor. Such person shall be told that his failure to submit to or complete such a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of six months.

The person arrested shall have the choice of whether the test shall be of his blood, breath, or urine, and he shall be advised by the officer that he has such choice. If the person arrested either is incapable, or states that he is incapable, of completing any chosen test, he shall then have the choice of submitting to and completing any of the remaining tests or test, and he shall be advised by the officer that he has such choice.

Such person shall also be advised by the officer that he does not have the right to have an attorney present before stating whether he will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, such refusal may be used against him in a court of law.

Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn his consent and such tests may be administered whether or not such person is told that his failure to submit to or complete the test will result in the suspension of his privilege to operate a motor vehicle.

(b) If any such person refuses the officer's request to submit to, or fails to complete, a chemical test, the department, upon receipt of the officer's sworn statement that he had reasonable cause to believe such person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor and that the person had refused to submit to, or failed to complete, the test after being requested by the officer, shall suspend his privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No such suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) The department shall immediately notify such person in writing of the action taken and, upon his request in writing and within 15 days from the date of receipt of such request, shall afford him an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3 of this division. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace

officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor, whether the person was placed under arrest, whether he refused to submit to, or failed to complete, the test after being requested by a peace officer, and whether, except for the persons described in subdivision (a) above who are incapable of refusing, he had been told that his driving privilege would be suspended if he refused to submit to, or failed to complete, the test.

An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the department fails to afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as hereinafter provided. However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension herein provided shall not become effective until five days after receipt by the person of the department's notification of such suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of such person's blood, and, if so requested, the arresting officer shall have the test performed.

CHAPTER 676

An act to amend Sections 22, 1001, 1602, 1680, 1742, 2102, 2144, 2157.3, 2603, 4035, 4036, 6947.1, 8762, 8773.4, 9013, 9056, 9890.114, 9891.33, 9984, 10133.1, 10171, 12701, 14207, 18711, 21665, and 23320 of, to amend and renumber Sections 2141.5, 2145.2, 2192.1, 2458.5, 2531.25, and 2655.75, the headings of Article 4 (commencing with Section 12925) and Article 5 (commencing with Section 12930) of Chapter 9 of Division 5, and the heading of Chapter 17 (commencing

with Section 22410) of Division 8 of, and to repeal Section 4089.5 of, the Business and Professions Code, to amend Sections 36, 43.9, 44, 56.31, 226.4, 241, 1160, 1834.7, 2945, 2945.1, 2945.5, 2945.6, 3103, 3267, 4201, 4201.5, 4213, 4801, 5155, and 5156 of, to amend and renumber the heading of Title 6 (commencing with Section 528) of, the heading of Title 8 (commencing with Section 548) of, and the heading of Title 12a (commencing with Section 607d) of, Part 4 of Division 1, and Sections 653aa and 653ee of, and to add a heading immediately preceding Section 653aa of, the Civil Code, to amend Sections 337.15, 373, 417.10, 1208.5, 1219, 1431, and 1564 of, to amend and renumber Section 1062a and the heading of Title 11a (commencing with Section 1730) of Part 3 of, and to repeal Section 1881 of, the Code of Civil Procedure, to amend Section 7235 of the Corporations Code, to amend Sections 5342, 17732, 69573, 69588, 72121, and 81363.5 of, and to amend and renumber Section 24303 of, the Education Code, to amend Section 25301 of, and to amend and renumber the heading of Chapter 1.5 (commencing with Section 6300) of Division 6 of, the Elections Code, to amend Sections 1361, 3373, and 3504 of, to amend and renumber Sections 18315, 18316, and 18530 of, and to repeal Section 18617.2 of, the Financial Code, to amend Sections 221, 11410, 11893, 12024, 12998, 52872, and 52891 of, and to amend and renumber Section 60854 and the heading of Article 9 (commencing with Section 68131) of Chapter 6 of Division 22 of, the Food and Agricultural Code, to amend Sections 965.2, 8898, 16115, 16260, 20009.1, 23353, 29062, 31805.1, 31846, 39581, 43073, 51230, 53205, 54000, 73565, 73568, 74782, 74965, and 75093.1 of, to amend and renumber the heading of Chapter 23 (commencing with Section 7800) of Division 7 of Title 1, Sections 7800, 11445, and 11446, the heading of Chapter 6 (commencing with Section 13894) of Part 3.2 of Division 3 of Title 2, Sections 26156, 26508, 30236, and 53072, the heading of Article 11 (commencing with Section 53920) of Chapter 4 of, the heading of Article 4 (commencing with Section 54096) of Chapter 5 of, the heading of Article 4.5 (commencing with Section 54125) of Chapter 5 of, and the heading of Article 5 (commencing with Section 54140) of Chapter 5 of, Part 1 of Division 2 of Title 5, Sections 54921 and 54976, the heading of Chapter 11 (commencing with Section 54980) of Part 1 of Division 2 of Title 5, and Sections 65863.5, 66796.83, 68519, 68521, 69894.4, 70128, 71040.5, 72604.1, and 74695 of, and to repeal Sections 11092 and 31671.7 and the heading of Article 2 of Chapter 5 of Title 8 of, the Government Code, to amend the heading of Part 1 (commencing with Section 100) of Division 1, and Sections 155, 216, 1250, 1277, 1343, 1505, 1550, 1760, 1760.5, 5474.29, 11164, 11361.5, 11878, 12081, 18832, 18897.2, 18897.3, 18956, 19984, 25117.6, 25913, 33675, and 51360.5 of, to amend and renumber Sections 1320, 41515, and 50093.5 of, to add a heading immediately preceding Section 429.90 of, and to repeal the heading of Chapter 2.5 of Part 1 of Division 1, Sections 1250.2 and 6644.1, Part 13 (commencing with Section 37910) of Division 24, and Sections 50667.5, 50669, 50670, 50913, 51350, and 51654 of, the Health and

Safety Code, to amend Sections 1530, 1707, 10190, 10203.1, 10395, 10457, 11520, and 11580.2 of, to amend and renumber Section 10123.1, the heading of Article 3a (commencing with Section 10320) of, the heading of Article 4a (commencing with Section 10350) of, and the heading of Article 5a (commencing with Section 10369.1) of, Chapter 4 of Part 2 of Division 2, and Sections 11512.16, 11512.9, and 11743 of, and to repeal Section 43, Article 2.5 (commencing with Section 1160.1) of Chapter 2 of Part 2 of Division 1, Article 3 (commencing with Section 10309) of, Article 4 (commencing with Section 10329) of, Article 5 (commencing with Section 10359) of, and Article 5.5 (commencing with Section 10369.50) of, Chapter 4 of Part 2 of Division 2, and the heading of Article 1 (commencing with Section 12660) of, and the headings of Articles 2, 3, 4, 5, 6 of, Chapter 3 of Part 6 of Division 2 of, the Insurance Code, to amend the heading of Chapter 7.5 (commencing with Section 175) of Division 1, and Sections 175, 431, 554, 1173, 1185, 1290, 1296, 1299, 1311, 1353, 1356, 1398, 2650, 2658.1, 2658.5, 2666, 3212, 3600.3, 4551, 5500.5, 6304.3, 6305, 6307.1, 6312, 6413.2, 6702, 7108, 7110, 7151, 7156, 7265, 7267, 7620, 7801, 7802, 7902, and 7951 of, and to repeal Section 231 of, the Labor Code, to amend Sections 830.3, 1170, 1182, 1349, 2931, 3064, 4530, 4534, 5076.1, and 12301 of, and to amend and renumber Section 13518 of, the Penal Code, to amend Sections 326 and 1469 of, and to repeal the heading of Chapter 2A (commencing with Section 1435.1) of Division 4 of, the Probate Code, to amend Sections 3472, 4586, 4791, 5093.33, 6805, 21002, 21174, 25901, and 30300 of, to amend and renumber Sections 4800, 4801, 4802, 4803, 4804, 4805, 4806, and 4807 of, and to add a heading immediately preceding Section 25675 of, the Public Resources Code, to amend Sections 202.2, 8732.1, 13696, 17415, 17535, 17599, 18191, 19057, 24989, 41051, and 41070 of, to amend and renumber Sections 17160, 17161, and 18568.6 of, and to repeal the heading of Part 0.5 (commencing with Section 95) of Division 1 and Section 6012.7 of, the Revenue and Taxation Code, to amend Sections 199.7 and 199.8 of the Streets and Highways Code, to amend Sections 1280, 1585, and 3701 of, and to repeal Sections 1326.5 and 1326.6 of, the Unemployment Insurance Code, to amend Sections 223, 2512, 9250.5, 11613, 11824, 12805, 22406, 27465, 27603, 31401, 31402, 35720, and 42050 of, and to repeal Section 11816 of, the Vehicle Code, to amend Sections 13370, 13903, 13904, 36255, and 75165.3 of the Water Code, and to amend Sections 653, 1776, 1813, 3054, 3100.6, 3110, 4446, 4461, 5328, 5328.6, 5328.7, 5330, 5359, 5652.5, 5664, 5752, 6000, 6509, 7100, 10053.25, 10131, 10134, 10174, 11405, 11479, and 19356 of, to amend and renumber the heading of Article 6 (commencing with Section 6550) of Chapter 2 of Part 2 of Division 6, the heading of Chapter 8 (commencing with Section 9700) of Division 8.5, Sections 14145 and 16150, and the heading of Chapter 8 (commencing with Section 19800) of Part 2 of Division 10 of, and to repeal Section 11404 of, the Welfare and Institutions Code, relating to maintenance of the codes.

[Approved by Governor July 19, 1980 Filed with
Secretary of State July 20, 1980]

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

SECTION 1. Section 22 of the Business and Professions Code is amended to read:

22. "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "division," "examining committee" and "agency."

SEC. 2. Section 1001 of the Business and Professions Code is amended to read:

1001. In each year, the State Board of Chiropractic Examiners shall compile and may thereafter publish and sell a complete directory of all persons within the state who hold unforfeited and unrevoked certificates to practice chiropractic, and whose certificate in any manner authorizes the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions.

The directory shall contain:

(a) The following information concerning each such person:

1. The name and address of such person.

2. The names and symbols indicating his title.

3. The school, attendance at which qualified him for examination or admission to practice.

4. The date of the issuance of his certificate.

(b) The annual report of the board for the prior year.

(c) Information relating to other laws of this state and the United States which the board determines to be of interest to persons licensed to practice chiropractic.

(d) Copies of opinions of the Attorney General relating to the practice of chiropractic.

(e) A copy of the provisions of this chapter and a copy of the act cited in Section 1000.

The board may require the persons designated in this section to furnish such information as it may deem necessary to enable it to compile the directory. Every person so designated shall report immediately each and every change of residence, giving both his old and new address.

The directory shall be evidence of the right of the persons named in it to practice unless his certificate to practice chiropractic has been canceled, suspended or revoked. The board may collect from each person who voluntarily subscribes to or purchases a copy of the directory the cost of publication and distribution thereof; except that one copy of the directory shall be distributed without charge to each certificate holder of the board.

SEC. 3. Section 1602 of the Business and Professions Code is amended to read:

1602. All of the members of the board, except the public members, shall have been actively and legally engaged in the practice of dentistry in the State of California, for at least five years next preceding the date of their appointment. The public members shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600. No more than one member of the board shall be a member of the faculty of any dental college or dental department of any medical college in the State of California. None of the members, including the public members, shall have any financial interest in any such college.

SEC. 4. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

(f) The use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he is licensed to practice, in advertising or in any other manner indicating that he is practicing or will practice dentistry, except such name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions or other services or articles supplied to patients.

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising of any free dental work, or free examination.

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as

defined in Article 8 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The failure to certify, or the false certification, to the board on or after January 1, 1972, that he or she or any person employed by the licentiate, who operates dental radiographic equipment, has passed an examination in radiation safety conducted by the board, or the equivalent of such examination as required by Section 1656; or the permitting of any person employed by him to operate dental radiographic equipment who has not passed an examination or the equivalent of such examination in radiation safety as required by Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days nor more than 180 days or by both such fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in such compliance.

(r) Suspension or revocation of a license issued by a sister state or territory on grounds which would be the basis of discipline in the State of California.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate before the completion of a phase of treatment, as such phase of treatment is defined by the customary practice and standards of the dental profession.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

SEC. 5. Section 1742 of the Business and Professions Code is amended to read:

1742. There is within the jurisdiction of the board a Committee on Dental Auxiliaries.

SEC. 6. Section 2102 of the Business and Professions Code is

amended to read:

2102. (a) The terms of the eight members added to the board by the amendments to Section 2100 adopted at the Second Extraordinary Session of the 1975 Legislature, shall expire as follows: two on June 1, 1978; three on June 1, 1979; and three on June 1, 1980. The Governor shall designate the terms of such members within 30 days of the effective date of this section as follows: one member from each of two divisions whose terms shall expire on June 1, 1978; one member from each of three divisions whose terms shall expire on January 1, 1979; and one member from each of three divisions whose terms shall expire on June 1, 1980.

(b) Vacancies occurring on the board shall be filled by appointment of the Governor for the unexpired term.

SEC. 7. Section 2141.5 of the Business and Professions Code, as added by Chapter 1205 of the Statutes of 1978, is amended and renumbered to read:

2141.2. (a) Section 2141 shall not be construed to prohibit any person from providing nutritional advice or giving advice concerning proper nutrition. For purposes of this section the term "providing nutritional advice or giving advice concerning proper nutrition" means the giving of information as to the use and role of food and food ingredients, including dietary supplements. This section confers no authority to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or mental or physical condition or to state that any product might cure any disease, disorder, or condition in violation of any provision of law.

(b) Any person in commercial practice providing nutritional advice or giving advice concerning proper nutrition shall post in an easily visible and prominent place the following statement in his or her place of business:

NOTICE

State law allows any person to provide nutritional advice or give advice concerning proper nutrition—which is the giving of advice as to the role of food and food ingredients, including dietary supplements. This state law does NOT confer authority to practice medicine or to undertake the diagnosis, prevention, treatment, or cure of any disease, pain, deformity, injury or mental or physical condition and specifically does not authorize any person other than one who is a licensed health professional to state that any product might cure any disease, disorder, or condition.

(c) The notice required by subdivision (b) shall not be smaller than 8½ inches by 11 inches and shall be legibly printed with lettering no smaller than ½ inch in length, except that the lettering of the word "NOTICE" shall be not smaller than 1 inch in length.

SEC. 8. Section 2144 of the Business and Professions Code is

amended to read:

2144. Nothing in this chapter prohibits service in the case of emergency, or the domestic administration of family remedies, nor does this chapter apply to any commissioned medical officer in the United States Army, Navy, Marine or Air Force hospital, or public health service, in the discharge of his official duties, nor to any licensed dentist when engaged exclusively in the practice of dentistry.

No physician and surgeon licensed under this chapter, who in good faith and without compensation renders voluntary emergency medical assistance to a participant in a community college or high school athletic event or contest, at the site of the event or contest, or during transportation to a health care facility, for an injury suffered in the course of the event or contest, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering such voluntary medical assistance. The immunity granted by this paragraph shall not apply in the event of an act or omission constituting gross negligence.

No person licensed under this chapter, who in good faith renders emergency care at the scene of the emergency, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.

"The scene of the emergency" as used in this section shall include, but not be limited to, the emergency rooms of hospitals in the event of a medical disaster. "Medical disaster" means a duly proclaimed state of emergency or local emergency declared pursuant to the California Emergency Services Act. Acts or omissions occurring in emergency rooms of hospitals in the event of a medical disaster and excepted from liability pursuant to this section shall include those acts or omissions which occur after the declaration of a medical disaster and those which occurred prior to such declaration but after the commencement of such medical disaster. The immunity granted in this paragraph shall not apply in the event of a willful act or omission.

SEC. 9. Section 2145.2 of the Business and Professions Code is amended and renumbered to read:

2159.5. (a) The Division of Allied Health Professions shall provide grants for the purpose of funding projects to research the therapeutic value of, and scientific basis for, acupuncture and related techniques. Each such grant shall be authorized after application is made to the division, in a form prescribed by the division, demonstrating that the proposed project is: (1) a legitimate and important scientific investigation of acupuncture; (2) the procedures to be employed are sufficient to achieve the research objectives; and (3) the costs to be incurred are reasonable.

(b) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund in the State Treasury to the Division of Allied Health Professions for purposes of funding projects authorized by this section.

SEC. 10. Section 2157.3 of the Business and Professions Code is amended to read:

2157.3. The provisions of this article shall not supersede the activities of persons involved in research pursuant to Section 2159.1.

SEC. 11. Section 2192.1 of the Business and Professions Code, as added by Chapter 1161 of the Statutes of 1978, is amended and renumbered to read:

2192.4. The Division of Licensing, subject to the State Civil Service Act, may employ investigators to evaluate the curricula of medical schools. Such persons shall meet such reasonable standards of experience and education, to be determined by the Division of Licensing, as will enable them to competently perform such duties.

SEC. 12. Section 2458.5 of the Business and Professions Code, as added by Chapter 1087 of the Statutes of 1978, is amended and renumbered to read:

2458.3. Every person holding a physician's and surgeon's certificate or a certificate to practice podiatry under this chapter is exempt from the payment of the renewal fee provided such physician and surgeon has practiced medicine for 20 years or more in the State of California, has reached the age of retirement under the Social Security Act, and customarily provides his or her services free of charge to any person, organization, or agency. In the event that charges are made, such charges shall be nominal and in no event shall the aggregate of such charges in any single year be in an amount which would result in his or her income being such as to make the practitioner ineligible for full social security benefits.

SEC. 13. Section 2531.25 of the Business and Professions Code is amended and renumbered to read:

2531.95. The committee shall from time to time adopt such rules and regulations as may be necessary to effectuate the provisions of this chapter. In adopting rules and regulations the committee shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 14. Section 2603 of the Business and Professions Code is amended to read:

2603. The members of the examining committee consist of the following: three physical therapists who shall have practiced physical therapy for five years and shall be licensed by the board, and three public members who shall not be licentiates of the committee or of any board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 15. Section 2655.75 of the Business and Professions Code is amended and renumbered to read:

2655.10. Every graduate of an approved physical therapist assistant school who has filed an application for approval as a physical therapist assistant may, between the date of receipt of notice that his application is on file and the date of receipt of approval, assist in the provision of physical therapy under the direct and immediate

supervision of a physical therapist.

During this period such an applicant shall identify himself only as a "physical therapist assistant applicant."

If a person assisting in the provision of physical therapy pursuant to this section fails to take the next succeeding examination without due cause or fails to pass the examination and receive approval, he shall no longer be authorized to perform the functions authorized by this section.

SEC. 16. Section 4035 of the Business and Professions Code is amended to read:

4035. Pharmacy is an area, place or premises in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" includes, but is not limited to, any area, place or premises described in a permit issued by the board by reference to plans filed with and approved by the board wherein narcotics or dangerous drugs or dangerous devices, as they are herein defined, are stored, possessed, prepared, manufactured, derived, compounded or repackaged, and from which said narcotics or dangerous drugs or dangerous devices are furnished, sold, or dispensed at retail.

"Pharmacy" shall not include any area in a facility licensed by the State Department of Health Services where floor supplies, ward supplies, operating room supplies, or emergency room supplies of drugs or dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment of patients receiving emergency care in the facility.

"Narcotics or dangerous drugs or dangerous devices" as used herein shall include, but is not limited to, all narcotics, drugs or devices which are included within one or more of the following classifications:

(a) Drugs or devices bearing the legend, "Caution, federal law prohibits dispensing without prescription," or words of similar import.

(b) Controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(c) Drugs or devices enumerated in Section 4211.

(d) Drugs or devices heretofore or hereafter classified as dangerous by the board pursuant to Sections 4061 and 4240.

(e) Poisons, hypodermic syringes and needles, or other drugs or devices, the sale of which is restricted by law to a registered pharmacist.

Neither this section nor any other provision of law shall be construed as prohibiting a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with facility regulations of the State Department of Health Services set forth in Title 22 of the California Administrative Code.

SEC. 17. Section 4036 of the Business and Professions Code is

amended to read:

4036. (a) "Prescription" means an oral order given individually for the person or persons for whom prescribed, directly from the prescriber to the furnisher, or indirectly by means of a written order, signed by the prescriber, and shall bear the name or names and address of the patient or patients, the name and quantity of the drug or device prescribed, directions for use, and the date of issue, and either rubber stamped, typed, or printed by hand or typeset the name, address, and telephone number of the prescriber, his license classification, and his federal registry number, if a controlled substance is prescribed. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, shall prescribe or write a prescription.

Nothing in the amendments made to this section at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right which a chiropractor, while acting within the scope of his license, may have to prescribe a device.

The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance that is a narcotic drug, which contains at least the name and signature of the prescriber, the name or names and address of the patient or patients in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist so long as any additional information required by subdivision (a) of this section is readily retrievable in the pharmacy. In the event of a conflict between the provisions of this subdivision and Section 11164 of the Health and Safety Code, the provisions of Section 11164 shall prevail.

(c) Except as provided in Section 4036.1, an oral prescription shall as soon as practicable be reduced to writing by the pharmacist and shall be filled by, or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number, license classification, federal registry number of the prescriber or the address of the patient or patients if such information is readily retrievable in the pharmacy.

SEC. 18. Section 4089.5 of the Business and Professions Code, as amended by Section 1 of Chapter 857 of the Statutes of 1976, is

repealed.

SEC. 19. Section 6947.1 of the Business and Professions Code is amended to read:

6947.1. (a) Any licensee or employee who intentionally violates any of the provisions of subdivisions (a) through (k), inclusive, of Section 6947 shall be liable to any aggrieved person for all actual damages which the person may sustain by reason of such violation.

(b) Any licensee or employee who intentionally violates any of the provisions of subdivision (j) of Section 6947 shall be liable to any aggrieved person for all actual damages which the person may sustain by reason of such violation, but in no event shall this be less than two hundred fifty dollars ($250) for each violation.

(c) In any action maintained pursuant to subdivision (a) or (b), the court shall award reasonable attorney's fees to the prevailing party.

(d) The damages provided for in this section are not in derogation of any other damages or penalties to which an aggrieved person may be entitled by law.

SEC. 20. Section 8762 of the Business and Professions Code is amended to read:

8762. After making a survey in conformity with the practice of land surveying, the surveyor or civil engineer may file with the county surveyor in the county in which the survey was made, a record of such survey.

Within 90 days after the establishment of points or lines the licensed land surveyor or registered civil engineer shall file with the county surveyor in the county in which the survey was made, a record of such survey relating to land boundaries or property lines, which discloses:

(a) Material evidence of physical change, which in whole or in part does not appear on any map or record previously recorded or filed in the office of the county recorder, county clerk, municipal or county surveying department or in the records of the Bureau of Land Management of the United States.

(b) A material discrepancy with such record.

(c) Evidence that, by reasonable analysis, might result in alternate positions of lines or points.

(d) The establishment of one or more lines not shown on any such map, the positions of which are not ascertainable from an inspection of such map without trigonometric calculations.

Any record of survey filed with the county surveyor shall after being examined by him be filed with the county recorder.

SEC. 21. Section 8773.4 of the Business and Professions Code is amended to read:

8773.4. (a) No corner record shall be filed unless the same is signed by a licensed land surveyor or registered civil engineer and stamped with his seal, or in the case of an agency of the United States government or the State of California the certificate may be signed by the chief of the survey party making the survey, setting forth his

official title.

(b) No corner record need be filed when:

(1) A corner record is on file and the corner is found as described in the existing corner record.

(2) All conditions of Section 8773 are complied with by proper notations on a record of survey map filed in compliance with the Land Surveyor's Act or a parcel or subdivision map, in compliance with the Subdivision Map Act.

This section shall not apply to maps filed prior to the effective date of this section.

SEC. 22. Section 9013 of the Business and Professions Code is amended to read:

9013. The board shall have and use a seal bearing the words "The Board of Behavioral Science Examiners," and shall otherwise conform to Section 107.5.

SEC. 23. Section 9056 of the Business and Professions Code is amended to read:

9056. A person other than a licensed clinical social worker may be employed as an apprentice clinical social worker by a licensed clinical social worker, a licensed psychologist, or a psychiatrist who is a licensed physician and surgeon, provided that:

(a) Such person has a master's degree from an accredited school or department of social work.

(b) Such person is at all times under the supervision of a licensed clinical social worker, a licensed psychologist, or a board certified psychiatrist who shall be responsible for insuring that the extent, kind, and quality of the clinical social work services he performs are consistent with competent practice and be responsible for his compliance with the provisions of this chapter, and the regulations adopted pursuant to this chapter and including those provisions set forth in Section 9051.

(c) Such person does not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee of the professional person qualified under this section.

(d) The employing licensed clinical social worker, licensed psychologist, or psychiatrist has submitted to the board the name and professional qualifications of such apprentice clinical social worker. No licensed clinical social worker may employ more than three such apprentice clinical social workers at any given time unless specifically authorized to do so by the board. No licensed clinical psychologist nor psychiatrist shall employ more than one such apprentice clinical social worker at any given time.

(e) Such person complies with such regulations as the board may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

SEC. 24. Section 9890.114 of the Business and Professions Code is amended to read:

9890.114. Any person or agent or officer thereof who violates any provision of this chapter is guilty of a misdemeanor punishable by a

fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or imprisonment for a period of not more than 60 days, or both such fine and imprisonment.

SEC. 25. Section 9891.33 of the Business and Professions Code is amended to read:

9891.33. If any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 26. Section 9984 of the Business and Professions Code is amended to read:

9984. (a) Every employment agency shall give to every applicant for employment from whom a fee or deposit is to be received a contract or receipt, in which is stated all of the following:

(1) The name, address and telephone number of the employment agency.

(2) The name and address of the person giving the order for help, the date and consecutive number of the receipt of such order by the agency, and its manner of transmission.

(3) The date and consecutive number of issuing the contract.

(4) The name of the applicant, the name and address of the person to whom the applicant is sent for employment, and the address where the applicant is to report for employment.

(5) The amount of the fee to be charged and to be collected from the applicant and the amount of the fee paid or advanced by the prospective employer and by whom paid or advanced.

(6) The kind of work or employment.

(7) The daily hours of work; the wages or salary, including any consideration or privilege.

(8) If any labor trouble exists at the place of employment, that fact shall be stated in the contract.

(9) Any other term, condition, or understanding agreed upon between the agency and the applicant.

(b) There shall be printed on the face of the contract in type no smaller than 10-point bold the following: "This agency is licensed by the Bureau of Employment Agencies of the State of California, 1333 Howe Avenue, Sacramento, California. Inquiries concerning your contract may be sent to this address." At the bottom of the contract there shall appear a notice to the effect that the contract is the property of the applicant and shall not be taken from him.

(c) The employment agency shall in such contract undertake to repay the applicant the fee in the event the applicant fails to accept employment.

(d) Every such contract or receipt shall be made and numbered consecutively in original and duplicate, both to be signed by the applicant and the person acting for the employment agency. The original shall be given to the applicant and the duplicate shall be kept on file at the agency.

(e) The provisions of this section shall not apply to

employer-retained agencies.

SEC. 27. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. The provisions of subdivision (d) of Section 10131, subdivision (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with Section 10237), and Article 7 (commencing with Section 10240) and Chapter 4 (commencing with Section 11700) of Part 2 do not apply to the following:

(a) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(b) Any lender making a loan guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made by such agency.

(c) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(e) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as an attorney at law, and the disbursements of such person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240) of this chapter, provided, such fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(g) Any person licensed as a personal property broker when acting under the authority of such license.

(h) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(i) Any person who makes collection of payments for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property, insofar as such activities are concerned, and (1) who is not actively engaged in the business of

negotiating loans secured by real property or (2) who is not acting as a principal or agent in the sale or exchange of promissory notes secured directly or collaterally by liens on real property; provided that:

(1) Such person has made application to the commissioner and has complied with all the provisions of Section 10133.25; or

(2) Such person makes such collections on 10 or less of such loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year.

(j) Any person authorized in writing by a savings and loan association to act as an agent, as defined in Section 5053 of the Financial Code, of that savings and loan association, when acting under the authority of such written authorization.

SEC. 28. Section 10171 of the Business and Professions Code is amended to read:

10171. On and after January 1, 1981, no active real estate license shall be renewed unless the commissioner finds that the applicant for such license has completed the continuing education required by this chapter. Any denial of a license pursuant to this section shall be subject to the provisions of Section 10100.

SEC. 29. Section 12701 of the Business and Professions Code is amended to read:

12701. The following shall not be construed to be public weighmasters:

(a) Retailers weighing or measuring commodities for sale by them in retail stores directly to consumers. The provisions of this exemption shall not apply to persons, firms, or corporations weighing bulk lot commodities on vehicle or hopper scales, or selling such commodities by volume, when the purchaser is not present at the time the weight or measure determination is made.

(b) Producers of agricultural commodities or livestock, weighing commodities produced or purchased by them or by their producer neighbors, when no charge is made for such weighing, or no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based; except that when such weight is to be used by a processor as a basis of payment there shall be no exception to the provisions of Section 12734.

(c) Common carriers issuing waybills or bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Weighers licensed under the provisions of Section 35161 of the Food and Agricultural Code when performing the duties for which they are licensed.

(e) Employees of the department authorized to weigh agricultural products under the provisions of Chapter 8 (commencing with Section 12801) of Division 5, when performing the duties authorized thereby.

(f) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(g) Employees of newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(h) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of such establishments.

(i) Employees of garbage and refuse disposal districts operating pursuant to Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code and county sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, which are authorized by their respective governing boards to utilize scales in determining charges for the disposal of liquid and solid wastes and employees of operators of solid waste disposal facilities, as defined in Section 66720.1 of the Government Code.

(j) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit recycling program.

(k) Persons operating under a license issued pursuant to Section 11701 of the Food and Agricultural Code.

SEC. 30. The heading of Article 4 (commencing with Section 12925) of Chapter 9 of Division 5 of the Business and Professions Code is amended and renumbered to read:

Article 2. Wool Products

SEC. 31. The heading of Article 5 (commencing with Section 12930) of Chapter 9 of Division 5 of the Business and Professions Code is amended and renumbered to read:

Article 3. Cotton

SEC. 32. Section 14207 of the Business and Professions Code is amended to read:

14207. "Trademark" means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by him and to distinguish them from goods made or sold by others.

SEC. 33. Section 18711 of the Business and Professions Code is amended to read:

18711. Except as provided in Section 18713, every club licensed under this chapter shall, within 72 hours after the determination of every contest, match, or exhibition for which an admission fee is charged and received, furnish to the commission a written report duly verified by one of its officers, showing the number of tickets issued or sold for such contest, match, or exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale,

lease, or other exploitation of broadcasting and television rights of such contest, match, or exhibition, and without any deductions whatsoever for commissions, brokerage, distribution fees, advertising, or any other expenses, charges, and recoupments in respect thereto and such other matters as the commission may prescribe. Such club shall also, within the same time, pay to the commission a tax, exclusive of any federal taxes paid thereon, of one cent ($0.01) for each twenty cents ($0.20), or fraction thereof, of the amount paid for admission to such contest, match, or exhibition, and of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall such tax be less than twenty-five dollars ($25). The tax shall apply uniformly at the same rate to all clubs subject to the tax. The tax on admissions applies to the amount actually paid for admission, and not to the regular established price. No tax is due in the case of a person admitted free of charge.

SEC. 34. Section 21665 of the Business and Professions Code is amended to read:

21665. (a) Swap meet operators shall retain a copy of the reports collected by them for one year and shall make such copies available for inspection, upon request, by a peace officer as defined in Section 830.1 or subdivision (a) of Section 830.3 of the Penal Code, or members of the California State Police as defined in subdivision (b) of Section 830.2 of the Penal Code, when the swap meet occurs on state property, or properly identified representatives of the State Board of Equalization.

(b) Vendors shall have available for inspection during the swap meet a completed copy of the report form which was submitted to the swap meet operator describing the goods offered or displayed for sale or exchange at the swap meet.

SEC. 35. The heading of Chapter 17 (commencing with Section 22410) of Division 8 of the Business and Professions Code is amended and renumbered to read:

CHAPTER 17.5. APPLIANCE LABELING

SEC. 36. Section 23320 of the Business and Professions Code is amended to read:

23320. The following are the types of licenses to be issued under this division and the annual fees to be charged therefor:

(1) Beer manufacturer's license	
(a) Beer manufacturers that produce 60,000 barrels or less a year	100.00 per year
(b) All other beer manufacturers	828.00 per year
(2) Winegrower's license or wine blender's license (to be computed only on the gallonage produced or blended), 5,000 gallons or less	22.00 per year

	Over 5,000 gallons to 20,000 gallons per year	44.00 per year
	Over 20,000 gallons to 100,000 gallons per year	82.50 per year
	Over 100,000 gallons to 200,000 gallons per year	110.00 per year
	Over 200,000 gallons to 1,000,000 gallons per year	165.00 per year
	For each 1,000,000 gallons or fraction thereof over 1,000,000 gallons an additional	110.00 per year
(3)	Brandy manufacturer's license	168.00 per year
(4)	Distilled spirits manufacturer's license	276.00 per year
(5)	Distilled spirits manufacturer's agent's license	276.00 per year
(5a)	California winegrower's agent's license	276.00 per year
(6)	Still license	12.00 per year
(7)	Rectifier's license	276.00 per year
(7a)	Distilled spirits rectifier's general license	276.00 per year
(8)	Wine rectifier's license	276.00 per year
(9)	Beer and wine importer's license	No fee
(10)	Beer and wine importer's general license	56.00 per year
(11)	Brandy importer's license	No fee
(12)	Distilled spirits importer's license	No fee
(13)	Distilled spirits importer's general license	276.00 per year
(14)	Public warehouse license	12.00 per year
(15)	Customs broker's license	12.00 per year
(16)	Wine broker's license	56.00 per year
(17)	Beer and wine wholesaler's license	56.00 per year
(18)	Distilled spirits wholesaler's license	276.00 per year
(18a)	California brandy wholesaler's license	276.00 per year
(19)	Industrial alcohol dealer's license	56.00 per year
(20)	Retail package off-sale beer and wine license	24.00 per year
(21)	Retail package off-sale general license	350.00 per year
(22)	On-sale beer license	168.00 per year
(23)	On-sale beer and wine license	168.00 per year
(24)	On-sale beer and wine license for trains (per train)	16.00 per year
(25)	On-sale beer license for fishing party boats (per boat)	32.00 per year
(26)	On-sale beer and wine license for boats (per boat)	56.00 per year
(27)	On-sale beer and wine license for airplanes (per scheduled flight)	16.00 per year
(28)	On-sale general license:	

	In cities of 40,000 population or over	580.00 per year
	In cities of less than 40,000 but more than 20,000 population	412.00 per year
	In all other localities	360.00 per year
(29)	On-sale general license for seasonal business:	
	In cities of 40,000 population or over	145.00 per quarter year
	In cities of less than 40,000 but more than 20,000 population	103.00 per quarter year
	In all other localities	90.00 per quarter year
(30)	(a) On-sale general license for bona fide clubs,	
	(b) Club license (issued under Article 4 of this chapter), or	
	(c) Veterans' club license (issued under Article 5 (commencing with Section 23450) of this chapter):	
	In cities of 40,000 population or over	330.00 per year
	In cities of less than 40,000 but more than 20,000	248.00 per year
	In all other localities	220.00 per year
(31)	On-sale general license for trains and sleeping cars	128.00 per year
	Duplicate on-sale general license for trains and sleeping car companies.....	32.00 per year
(32)	On-sale general license for boats	332.00 per year
(33)	On-sale general license for airplanes.....	332.00 per year
	Duplicate on-sale general license for air common carriers.....	10.00 per year
(34)	On-sale general license for vessels of more than 1,000 tons burden	128.00 per year
	Duplicate on-sale general license for vessels of more than 1,000 tons burden	32.00 per year
(35)	On-sale general bona fide public eating place intermittent dockside license for vessels of more than 10,000 tons displacement	360.00 per year
(36)	On-sale special beer and wine license for hospitals, convalescent homes, and rest homes	56.00 per year

SEC. 37. Section 36 of the Civil Code is amended to read:

36. (a) A contract, otherwise valid, entered into during minority, cannot be disaffirmed upon that ground either during the actual minority of the person entering into such contract, or at any time thereafter, in the following cases:

(1) A contract to pay the reasonable value of things necessary for

his support, or that of his family, entered into by him when not under the care of a parent or guardian able to provide for him or them; provided, that these things have been actually furnished to him or to his family.

(2) (A) A contract or agreement pursuant to which such person is employed or agrees to render artistic or creative services, or agrees to purchase, or otherwise secure, sell, lease, license, or otherwise dispose of literary, musical or dramatic properties (either tangible or intangible) or any rights therein for use in motion pictures, television, the production of phonograph records, the legitimate or living stage, or otherwise in the entertainment field, if the contract or agreement has been approved by the superior court in the county in which such minor resides or is employed or, if the minor neither resides in or is employed in this state, if any party to the contract or agreement has its principal office in this state for the transaction of business.

(B) As used in this paragraph, "artistic or creative services" shall include, but not be limited to, services as an actor, actress, dancer, musician, comedian, singer, or other performer or entertainer, or as a writer, director, producer, production executive, choreographer, composer, conductor, or designer.

(3) A contract or agreement pursuant to which such person is employed or agrees to render services as a participant or player in professional sports, including, but without being limited to, professional boxers, professional wrestlers, and professional jockeys, if the contract or agreement has been approved by the superior court in the county in which such minor resides or is employed or, if the minor neither resides in or is employed in this state, if any party to the contract or agreement has its principal office in this state for the transaction of business.

(b) The approval of the superior court referred to in paragraphs (2) and (3) of subdivision (a) may be given upon the petition of either party to the contract or agreement after such reasonable notice to the other party thereto as may be fixed by said court, with opportunity to such other party to appear and be heard; and its approval when given shall extend to the whole of the contract or agreement, and all of the terms and provisions thereof, including, but without being limited to, any optional or conditional provisions contained therein for extension, prolongation, or termination of the term thereof.

SEC. 38. Section 43.9 of the Civil Code is amended to read:

43.9. (a) There shall be no liability on the part of, and no cause of action shall accrue against, any health care provider for professional negligence on account of the receipt by such provider of an unsolicited referral, arising from a test performed by a multiphasic screening unit, for any act or omission, including the failure to examine, treat, or refer for examination or treatment any person concerning whom an unsolicited referral has been received. The immunity from liability granted by this subdivision shall only

apply where a health provider meets the obligations established in subdivision (c).

(b) Every multiphasic screening unit shall notify each person it tests that the person should contact the health provider to whom the test results are sent within 10 days and that the health provider may not be obligated to interpret the results or provide further care. The multiphasic screening unit shall include the words "PATIENT TEST RESULTS" on the envelope of any test results sent to a health care provider, and shall include the address of the person tested in the test result material sent to the health care provider.

Nothing contained in this section shall relieve any health care provider from liability, if any, when at the time of receipt of the unsolicited referral there exists a provider-patient relationship, or a contract for health care services, or following receipt of such unsolicited referral there is established or reestablished a provider-patient relationship.

(c) A health care provider who receives unsolicited test results from a multiphasic screening unit shall receive immunity from liability pursuant to subdivision (a) only if the provider who receives such test results and does not wish to evaluate them, or evaluates them and takes no further action, either notifies the multiphasic screening unit of that fact or returns the test results within 21 days. If the health care provider reviews the test results and determines that they indicate a substantial risk of serious illness or death the provider shall make a reasonable effort to notify the person tested of the presumptive finding within 14 days after the provider has received the test results.

(d) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code, and any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" also includes the legal representatives of a health care provider.

(2) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, provided that such services are within the scope of services for which the health care provider is licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

(3) "Unsolicited referral" means any written report regarding the health, physical or mental condition of any person which was forwarded or delivered to a health care provider without prior request by such provider.

(4) A "multiphasic screening unit" means a facility which does not

prescribe or treat patients but performs diagnostic testing only.

SEC. 39. Section 44 of the Civil Code is amended to read:

44. Defamation is effected by either of the following:

(a) Libel.

(b) Slander.

SEC. 40. Section 56.31 of the Civil Code is amended to read:

56.31. A violation of the provisions of this part shall be punishable as a misdemeanor pursuant to Section 19 of the Penal Code.

SEC. 41. Section 226.4 of the Civil Code is amended to read:

226.4. If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of the period granted by the court, the State Department of Social Services or the licensed county adoption agency fails or refuses to accept the consent of the natural parent or parents to the adoption, or if the department or agency fails or refuses to file or to give its consent to an adoption in those cases where its consent is required by this chapter, either the natural parent or parents or the petitioner may appeal from the failure or refusal to the superior court of the county in which the petition is filed, in which event the clerk shall immediately notify the State Department of Social Services of the appeal and the department or agency shall within 10 days file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the natural parent. After the filing of the findings, the court may, if it deems that the welfare of the child will be promoted by said adoption, allow the signing of the consent by the natural parent or parents in open court, or if the appeal be from the refusal of the department or agency to consent thereto, grant the petition without the consent.

SEC. 42. Section 241 of the Civil Code is amended to read:

241. As used in this title:

(a) "State" includes any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Obligor" means any person owing a duty of support.

(c) "Obligee" means any person to whom a duty of support is owed.

(d) "Child" means a son or daughter under the age of 18 years and a son or daughter of whatever age who is incapacitated from earning a living and without sufficient means.

(e) "Parent" includes either a natural parent or an adoptive parent.

SEC. 43. The heading of Title VI (commencing with Section 528) of Part 4 of Division 1 of the Civil Code is amended and renumbered to read:

TITLE 2. BRIDGE, FERRY, WHARF, CHUTE, AND PIER CORPORATIONS

SEC. 44. The heading of Title VIII (commencing with Section

548) of Part 4 of Division 1 of the Civil Code is amended and renumbered to read:

TITLE 3. WATER AND CANAL CORPORATIONS

SEC. 45. The heading of Title XIIa (commencing with Section 607d) of Part 4 of Division 1 of the Civil Code is amended and renumbered to read:

TITLE 4. SOCIETIES FOR THE PREVENTION OF CRUELTY TO CHILDREN AND ANIMALS

SEC. 46. A heading is added immediately preceding Section 653aa of the Civil Code, to read:

TITLE 5. NONPROFIT COOPERATIVE AGRICULTURAL MARKETING ASSOCIATIONS

SEC. 47. Section 653aa of the Civil Code is amended and renumbered to read:

610. In order to promote, foster, and encourage the intelligent and orderly marketing of agricultural products through cooperation; to eliminate speculation and waste; to make the distribution of agricultural products between producer and consumer as direct as can be efficiently done; and to stabilize the marketing of agricultural products, this act is passed.

SEC. 48. Section 653ee of the Civil Code is amended and renumbered to read:

611. It is here recognized that agriculture is characterized by individual production in contrast to the group or factory system that characterizes other forms of industrial production; and that the ordinary form of corporate organization permits industrial groups to combine for the purpose of group production and the ensuing group marketing; and that the public has an interest in permitting farmers to bring their industry to the high degree of efficiency and merchandising skill evidenced in the manufacturing industries; and that the public interest urgently needs to prevent the migration from the farm to the city in order to keep up farm production and to preserve the agricultural supply of the nation; and that the public interest demands that the farmer be encouraged to attain a superior and more direct system of marketing in the substitution of merchandising for the blind, unscientific, and speculative selling of crops.

SEC. 49. Section 1160 of the Civil Code is amended to read:

1160. No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the

purported donor or by the custodian or purporting to act as a custodian has been duly designated or whether any purchase, sale, or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this article, or is obliged to inquire into the validity or propriety under this article of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. No issuer, transfer agent, bank, life insurance company, broker, or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in subdivision (b) of Section 1161 by a minor to whom a gift has been made in a manner prescribed in this article and who has attained the age of 14 years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this article of the instrument of designation.

SEC. 50. Section 1834.7 of the Civil Code is amended to read:

1834.7. In any pound or animal regulation department of a public or private agency where animals are turned over to a research facility, a sign (measuring a minimum of 28 x 21 cm—11 x 8½ inches—with lettering of a minimum of 3.2 cm high and 1.2 cm wide—1¼ x ½ inch—(91 point)) stating:

"Animals Turned In To This Shelter May Be Used For Research Purposes"

shall be posted in such a place that it will be clearly visible to a majority of persons when turning animals over to the shelter.

For purposes of this section, "animal research facility" includes any laboratory, firm, association, corporation, copartnership, and educational institution.

SEC. 51. Section 2945 of the Civil Code is amended to read:

2945. (a) The Legislature finds and declares that homeowners whose residences are in foreclosure are subject to fraud, deception, harassment, and unfair dealing by foreclosure consultants from the time a Notice of Default is recorded pursuant to Section 2924 until the time of the foreclosure sale. Foreclosure consultants represent that they can assist homeowners who have defaulted on obligations secured by their residences. These foreclosure consultants, however, often charge high fees, the payment of which is often secured by a deed of trust on the residence to be saved, and perform no service or essentially a worthless service. Homeowners, relying on the foreclosure consultants' promises of help, take no other action, are diverted from lawful businesses which could render beneficial services, and often lose their homes, sometimes to the foreclosure consultants who purchase homes at a fraction of their value before the sale.

(b) The Legislature further finds and declares that foreclosure

consultants have a significant impact on the economy of this state and on the welfare of its citizens.

(c) The intent and purposes of this article are the following:

(1) To require that foreclosure consultant service agreements be expressed in writing; to safeguard the public against deceit and financial hardship; to permit rescission of foreclosure consultation contracts; to prohibit representations that tend to mislead; and to encourage fair dealing in the rendition of foreclosure services.

(2) The provisions of this article shall be liberally construed to effectuate this intent and to achieve these purposes.

SEC. 52. Section 2945.1 of the Civil Code is amended to read:

2945.1. The following definitions apply to this article:

(a) "Foreclosure consultant" means any person who makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which such person in any manner represents will in any manner do any of the following:

(1) Stop or postpone the foreclosure sale.

(2) Obtain any forbearance from any beneficiary or mortgagee.

(3) Assist the owner to exercise the right of reinstatement provided in Section 2924c.

(4) Obtain any extension of the period within which the owner may reinstate his obligation.

(5) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained in any such deed of trust or mortgage.

(6) Assist the owner to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale.

(8) Save such owner's residence from foreclosure.

(b) A foreclosure consultant does not include any of the following:

(1) A person licensed to practice law in this state when such person renders service in the course of his practice as an attorney at law.

(2) A person licensed under Division 3 (commencing with Section 12000) of the Financial Code when such person is acting as a prorater as defined therein.

(3) A person licensed under Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code when such person makes a direct loan or when such person (A) engages in acts whose performance requires licensure under such part, (B) is entitled to compensation for such acts performed in connection with the sale of a residence in foreclosure or with the arranging of a loan secured by a lien on a residence in foreclosure, (C) does not claim, demand, charge, collect, or receive any compensation until such acts have been performed or cannot be performed because of an owner's failure to make the disclosures set forth in Section 10243 of the

Business and Professions Code or failure to accept an offer from a purchaser or lender ready, willing, and able to purchase a residence in foreclosure or make a loan secured by a lien on a residence in foreclosure on the terms prescribed in a listing or a loan agreement, and (D) does not acquire any interest in a residence in foreclosure directly from an owner for whom such person agreed to perform such acts other than as a trustee or beneficiary under a deed of trust given to secure the payment of a loan or such compensation. For the purposes of this paragraph, a "direct loan" means a loan of a real estate broker's own funds secured by a deed of trust on the residence in foreclosure, which loan and deed of trust the broker in good faith attempts to assign to a lender, for an amount at least sufficient to cure all of the defaults on obligations which are then subject to a recorded notice of default, provided that, if a foreclosure sale is conducted with respect to such deed of trust, the person conducting such foreclosure sale has no interest in the residence in foreclosure or in the outcome of the sale and is not owned, controlled, or managed by the lending broker; the lending broker does not acquire any interest in the residence in foreclosure directly from the owner other than as a beneficiary under the deed of trust; and the loan is not made for the purpose or effect of avoiding or evading the provisions of this article.

(4) A person licensed under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code when such person is acting in any capacity for which such person is licensed under such part.

(5) A person or his authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services.

(6) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure when such person performs services in connection with this obligation or lien.

(c) "Person" means any individual, partnership, corporation, association or other group, however organized.

(d) "Service" means and includes, but is not limited to, any of the following:

(1) Debt, budget, or financial counseling of any type.

(2) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure.

(3) Contacting creditors on behalf of an owner of a residence in foreclosure.

(4) Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure his default and reinstate his obligation pursuant to Section 2924c.

(5) Arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure.

(6) Advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court.

(7) Giving any advice, explanation or instruction to an owner of a residence in foreclosure which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of such an obligation, or the postponement or avoidance of a sale of a residence in foreclosure pursuant to a power of sale contained in any deed of trust.

(e) "Residence in foreclosure" means a residence, including all land appurtenant and improvements thereto, consisting of one- to four-family units one of which the owner occupies as his personal residence, that is the subject of a Notice of a Default recorded pursuant to Article 1 (commencing with Section 2920).

(f) "Owner" means an owner of a residence in foreclosure.

(g) "Contract" means any agreement, or any term thereof, between a foreclosure consultant and an owner for the rendition of any service as defined in subdivision (c).

SEC. 53. Section 2945.5 of the Civil Code is amended to read:

2945.5. Any waiver by an owner of the provisions of this article shall be deemed void and unenforceable as contrary to public policy. Any attempt by a foreclosure consultant to induce an owner to waive his rights shall be deemed a violation of this article.

SEC. 54. Section 2945.6 of the Civil Code is amended to read:

2945.6. (a) An owner may bring an action against a foreclosure consultant for any violation of this article. Judgment shall be entered for actual damages, reasonable attorneys' fees and costs, and appropriate equitable relief. The court also may, in its discretion, award exemplary damages and shall award exemplary damages equivalent to at least three times the compensation received by the foreclosure consultant in violation of subdivision (a), (b), or (d) of Section 2945.4, in addition to any other award of actual or exemplary damages.

(b) The rights and remedies provided in subdivision (a) are cumulative to, and not a limitation of, any other rights and remedies provided by law.

SEC. 55. Section 3103 of the Civil Code is amended to read:

3103. "Stop notice" means a written notice, signed and verified by the claimant or his agent, stating in general terms all of the following:

(a) The kind of labor, services, equipment, or materials furnished or agreed to be furnished by such claimant.

(b) The name of the person to or for whom the same was done or furnished.

(c) The amount in value, as near as may be, of that already done or furnished and of the whole agreed to be done or furnished.

The notice, in the case of any work of improvement other than a public work, shall be delivered to the owner personally or left at his

residence or place of business with some person in charge, or delivered to his architect, if any, and, if the notice is served upon a construction lender, holding construction funds and maintaining branch offices, it shall not be effective as against the construction lender unless given to or served upon the manager or other responsible officer or person at the office or branch thereof administering or holding the construction funds. The notice, in the case of any public work for the state, shall be filed with the director of the department which let the contract and, in the case of any other public work, shall be filed in the office of the controller, auditor, or other public disbursing officer whose duty it is to make payments under the provisions of the contract, or with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom the contract was awarded. No stop notice shall be invalid by reason of any defect in form if it is sufficient to substantially inform the owner of the information required.

Any stop notice may be served by registered or certified mail with the same effect as by personal service.

SEC. 56. Section 3267 of the Civil Code is amended to read:

3267. Nothing contained in this title shall be construed to give to any person any right of action on any original contractor's private or public work payment bond described in Chapter 6 (commencing with Section 3235) or Chapter 7 (commencing with Section 3247), unless the work forming the basis for his claim was performed by such person for the principal on such payment bond, or one of his subcontractors, pursuant to the contract between the original contractor and the owner.

Nothing in this section shall affect the stop notice rights of, and relative priorities among, architects, registered engineers, or licensed land surveyors and holders of secured interests on the land.

SEC. 57. Section 4201 of the Civil Code is amended to read:

4201. All persons about to be joined in marriage must first obtain a license therefor, from a county clerk, which license must show all of the following:

(1) The identity of the parties.

(2) Their real and full names, and places of residence.

(3) Their ages.

No license shall be granted when either of the parties, applicants therefor, is an imbecile, is insane, or is, at the time of making the application for the license, under the influence of any intoxicating liquor, or narcotic drug. If the person is under the age of 18 years, no license may be issued by the county clerk unless both parties are capable of consenting to and consummating marriage as provided for in Section 4101 and such consent or consents or court orders, provided for in Section 4102, must be filed by the clerk. Each applicant may be required to present authentic identification as to name. For the purpose of ascertaining all the facts mentioned or required in this section, the clerk, at the time the license is applied

for may, if he deems it necessary in order to satisfy himself as to matters enumerated in this section, examine the applicants for a license on oath, which examination shall be reduced to writing by the clerk, and subscribed by them; or, if necessary, the clerk may request additional documentary proof as to the accuracy of the facts stated. Applicants for a license pursuant to this section shall not be required to state, for any purpose, their race or color.

The forms for the application for license to marry and the marriage license shall be prescribed by the State Department of Health Services, and shall be adapted to set forth the facts required in this section.

SEC. 58. Section 4201.5 of the Civil Code is amended to read:

4201.5. The State Department of Health Services shall prepare and publish a brochure which indicates the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases. The State Department of Health Services shall make such brochures available to county clerks who shall distribute a copy of the brochure to all applicants for a marriage license. To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 59. Section 4213 of the Civil Code is amended to read:

4213. When unmarried persons, not minors, have been living together as man and wife, they may, without a license, be married by any person authorized to solemnize a marriage under Sections 4205, 4205.1, and 4205.5, without the necessity of first obtaining health certificates. A certificate of marriage shall be filled out by the parties to the marriage and authenticated by the clergyman or other person performing the ceremony. The certificate shall be filed by the clergyman or other person performing the ceremony with the office of the county clerk in the county in which the ceremony was performed within four days after the performance of the ceremony. The county clerk shall maintain this certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause.

The form of the certificate of marriage shall be prescribed by the State Department of Health Services. The form shall be furnished to any clergyman or other person performing the ceremony by the county clerk without charge.

The total number of marriage certificates filed pursuant to this section shall be reported on a periodic basis to the department on forms prescribed and furnished by it.

SEC. 60. Section 4801 of the Civil Code is amended to read:

4801. (a) In any judgment decreeing the dissolution of a marriage or a legal separation of the parties, the court may order a party to pay for the support of the other party any amount, and for such period of time, as the court may deem just and reasonable. In making the award, the court shall consider the following circumstances of the respective parties:

(1) The earning capacity of each spouse, taking into account the extent to which the supported spouse's present and future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported spouse to devote time to domestic duties.

(2) The needs of each party.

(3) The obligations and assets, including the separate property, of each.

(4) The duration of the marriage.

(5) The ability of the supported spouse to engage in gainful employment without interfering with the interests of dependent children in the custody of the spouse.

(6) The time required for the supported spouse to acquire appropriate education, training, and employment.

(7) The age and health of the parties.

(8) The standard of living of the parties.

(9) Any other factors which it deems just and equitable.

At the request of either party, the court shall make appropriate findings with respect to the circumstances. The court may order the party required to make such payment of support to give reasonable security therefor. Any order for support of the other party may be modified or revoked as the court may deem necessary, except as to any amount that may have accrued prior to the date of the filing of the notice of motion or order to show cause to modify or revoke. At the request of either party, the order of modification or revocation shall include findings of fact and may be made retroactive to the date of filing of the notice of motion or order to show cause to modify or revoke, or to any date subsequent thereto.

(b) Except as otherwise agreed by the parties in writing, the obligation of any party under any order or judgment for the support and maintenance of the other party shall terminate upon the death of either party or the remarriage of the other party.

(c) When a court orders a person to make specified payments for support of the other party for a contingent period of time, the liability of such person terminates upon the happening of such contingency. If the party to whom payments are to be made fails to notify the person ordered to make such payments, or the attorney of record of such person, of the happening of such contingency and continues to accept support payments, such party shall refund any and all moneys received which accrued after the happening of such contingency, except that such overpayments shall first be applied to any and all support payments which are then in default. The court may, in the original order for support, order the party to whom payments are to be made to notify the person ordered to make such payments, or his attorney of record, of the happening of such contingency.

(d) An order for payment of an allowance for the support of one of the parties shall terminate at the end of the period specified in the order and shall not be extended unless the court in its original order

retains jurisdiction.

SEC. 61. Section 5155 of the Civil Code is amended to read:

5155. (1) A court of this state shall not exercise its jurisdiction under this title if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this title, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

(2) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under Section 5159 and shall consult the child custody registry established under Section 5165 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with Sections 5168 through 5171. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

SEC. 62. Section 5156 of the Civil Code is amended to read:

5156. (1) A court which has jurisdiction under this title to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(2) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(3) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(a) If another state is or recently was the child's home state.

(b) If another state has a closer connection with the child and his family or with the child and one or more of the contestants.

(c) If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state.

(d) If the parties have agreed on another forum which is no less appropriate.

(e) If the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in Section 5150.

(4) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(5) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(6) The court may decline to exercise its jurisdiction under this title if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(7) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(8) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(9) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.

SEC. 63. Section 337.15 of the Code of Civil Procedure is amended to read:

337.15. (a) No action may be brought to recover damages from any person, or the surety of a person, who develops real property or performs or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or construction of an improvement to real property more than 10 years after the substantial completion of such development or improvement for any of the following:

(1) Any latent deficiency in the design, specification, surveying, planning, supervision, or observation of construction or construction

of an improvement to, or survey of, real property.

(2) Injury to property, real or personal, arising out of any such latent deficiency.

(b) As used in this section, "latent deficiency" means a deficiency which is not apparent by reasonable inspection.

(c) As used in this section, "action" includes an action for indemnity brought against a person arising out of his performance or furnishing of services or materials referred to in this section, except that a cross-complaint for indemnity may be filed pursuant to subdivision (b) of Section 428.10 in an action which has been brought within the time period set forth in subdivision (a) of this section.

(d) Nothing in this section shall be construed as extending the period prescribed by the laws of this state for bringing any action.

(e) The limitation prescribed by this section shall not be asserted by way of defense by any person in actual possession or the control, as owner, tenant or otherwise, of such an improvement, at the time any deficiency in such improvement constitutes the proximate cause for which it is proposed to bring an action.

(f) This section shall not apply to actions based on willful misconduct or fraudulent concealment.

SEC. 64. Section 373 of the Code of Civil Procedure is amended to read:

373. When a guardian ad litem is appointed, he or she shall be appointed as follows:

(a) If the minor is the plaintiff the appointment must be made before the summons is issued, upon the application of the minor, if the minor is of the age of 14 years, or if under that age, upon the application of a relative or friend of the minor.

(b) If the minor is the defendant, upon the application of the minor, if the minor is of the age of 14 years, and the minor applies within 10 days after the service of the summons, or if under that age, or if the minor neglects to apply, then upon the application of a relative or friend of the minor, or of any other party to the action, or by the court on its own motion.

(c) If an insane or incompetent person is a party to an action or proceeding, upon the application of a relative or friend of such insane or incompetent person, or of any other party to the action or proceeding, or by the court on its own motion.

SEC. 65. Section 417.10 of the Code of Civil Procedure is amended to read:

417.10. Proof that a summons was served on a person within this state shall be made:

(a) If served under Section 415.10, 415.20, or 415.30, by the affidavit of the person making such service showing the time, place, and manner of service and facts showing that such service was made in accordance with this chapter. Such affidavit shall recite or in other manner show the name of the person to whom a copy of the summons and of the complaint were delivered, and, if appropriate, his title or the capacity in which he is served, and that the notice

required by Section 412.30 appeared on the copy of the summons served, if in fact it did appear.

If service is made by mail pursuant to Section 415.30, proof of service shall include the acknowledgement of receipt of summons in the form provided by that section or other written acknowledgment of receipt of summons satisfactory to the court.

(b) If served by publication pursuant to Section 415.50, by the affidavit of the publisher or printer, or his foreman or principal clerk, showing the time and place of publication, and an affidavit showing the time and place a copy of the summons and of the complaint were mailed to the party to be served, if in fact mailed.

(c) If served pursuant to another statute of this state, in the manner prescribed by such statute or, if no manner is prescribed, in the manner prescribed by this section for proof of a similar manner of service.

(d) By the written admission of the party.

(e) If served by posting pursuant to Section 415.45, by the affidavit of the person who posted the premises, showing the time and place of posting, and an affidavit showing the time and place copies of the summmons and of the complaint were mailed to the party to be served, if in fact mailed.

SEC. 66. Section 1062a of the Code of Civil Procedure is amended and renumbered to read:

1062.3 (a) Except as provided in subdivision (b), actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence may be given by law.

(b) Any action brought under the provisions of this chapter in which the plaintiff seeks any relief, in addition to a declaration of rights and duties, shall take such precedence only upon noticed motion and a showing that the action requires a speedy trial.

SEC. 67. Section 1208.5 of the Code of Civil Procedure is amended to read:

1208.5. Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy such lien as follows: If such lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding such lien may resort to the proper court to satisfy the claim; or he, three days after the charges against the property become due, may sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no paper published in the county, then by posting notices of the sale in three of the most public places in the town or judicial district for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the

terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury.

SEC. 68. Section 1219 of the Code of Civil Procedure is amended to read:

1219. When the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he has performed it, and in that case the act shall be specified in the warrant of commitment.

SEC. 69. Section 1431 of the Code of Civil Procedure is amended to read:

1431. When money in the Unclaimed Property Fund has become permanently escheated to the state, the amount thereof shall, on order of the Controller, be transferred to the General Fund. When property other than money held by the Controller or Treasurer in the name of any account in the Unclaimed Property Fund has become permanently escheated to the state, the records of the Controller and Treasurer shall be adjusted to show that such property is held in the name of the General Fund.

SEC. 70. Section 1564 of the Code of Civil Procedure is amended to read:

1564. (a) All money received under this chapter, including the proceeds from the sale of property under Section 1563, shall be deposited in the Unclaimed Property Fund in an account titled "Abandoned Property."

(b) All money in the Abandoned Property Account in the Unclaimed Property Fund is hereby continuously appropriated to the Controller, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(1) For payment of claims allowed by the Controller under the provisions of this chapter.

(2) For refund, to the person making such deposit, of amounts, including overpayments, deposited in error in such fund.

(3) For payment of the cost of appraisals incurred by the Controller covering property held in the name of an account in such fund.

(4) For payment of the cost incurred by the Controller for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the Controller, or which arose from complying with this chapter with respect to such property or funds.

(5) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(6) For payment of costs incurred by the Controller for the repair, maintenance, and upkeep of property held in the name of an account in such fund.

(7) For payment of costs of official advertising in connection with the sale of property held in the name of an account in such fund.

(8) For transfer to the General Fund as provided in subdivision (c).

(9) For transfer to the Inheritance Tax Fund of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(c) At the end of each month, or more often if he deems it advisable, the Controller shall transfer all money in the Abandoned Property Account in excess of fifty thousand dollars ($50,000) to the General Fund. Before making this transfer, he shall record the name and last known address of each person appearing from the holders' report to be entitled to the escheated property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, and the name of the corporation. The record shall be available for public inspection at all reasonable business hours.

SEC. 71. The heading of Title XIá (commencing with Section 1730) of Part 3 of the Code of Civil Procedure is amended and renumbered to read:

TITLE 11.5. CONCILIATION PROCEEDINGS

SEC. 72. Section 1881 of the Code of Civil Procedure is repealed.

SEC. 73. Section 7235 of the Corporations Code is amended to read:

7235. (a) Except as provided in subdivision (b), a corporation shall not make any loan of money or property to or guarantee the obligation of:

(1) Any director or officer of the corporation or of its parent or any subsidiary; or

(2) Any person upon the security of memberships of the corporation or of its parent, unless the loan or guaranty is otherwise adequately secured, except by the vote of the holders of a majority of the voting power of memberships of all classes, regardless of limitations or restrictions on voting rights, other than the membership held by the benefited director, officer or member.

(b) Any corporation may lend money to, or guarantee any obligation of or otherwise assist any officer or other employee of the corporation or of any subsidiary, including any officer or employee who is also a director, pursuant to an employee benefit plan available to executives or other employees, whenever the board determines that such loan or guaranty may reasonably be expected to benefit the corporation. If such plan includes officers or directors, it shall be

approved by the members (Section 5034) after disclosure of the right under such plan to include officers or directors thereunder. Such loan or guaranty or other assistance may be with or without interest and may be unsecured or secured in such manner as the board shall approve, including, without limitation, a pledge of memberships of the corporation. A corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such director or officer, provided that in the absence of such advance such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent or any subsidiary.

(c) The provisions of subdivisions (a) and (b) do not apply to credit unions, or to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value, or to loans permitted under any statute regulating any special class of corporations.

SEC. 74. Section 5342 of the Education Code is amended to read:

5342. Whenever any school district election or community college district election is scheduled to be held on the same day, in the same territory, or in territory that is in part the same, as an election or elections called to be held by any other district, city, county, or other political subdivision, the district election may be either completely or partially consolidated with such election or elections pursuant to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

The consolidation may be effected by the officer conducting the election upon receipt of resolutions from two or more political subdivisions whose boundaries are totally or partially the same territory calling elections to be held on the same day; provided the resolutions are delivered to the officer conducting the election at least 74 days prior to the date of the election.

SEC. 75. Section 17732 of the Education Code is amended to read:

17732. The board shall fix rents for all projects acquired and may change the rents from time to time as may be needed provided the rents shall not in any year exceed the sum of the following:

(a) One dollar ($1.00).

(b) Any interest earned on funds in the county school lease-purchase fund for the district.

(c) Any unencumbered bond funds of the district.

(d) The net proceeds from the sale or lease of any school buildings or land no longer needed for school purposes.

SEC. 76. Section 24303 of the Education Code is amended and renumbered to read:

23403. The Controller shall transfer, in equal monthly payments, from the General Fund to the Teachers' Retirement Fund, the amounts specified in Sections 23401 and 23402.

SEC. 77. Section 69573 of the Education Code is amended to read:

69573. This article shall be effective until June 1, 1982, and on such date is repealed.

SEC. 78. Section 69588 of the Education Code is amended to read:

69588. This article shall be effective until June 1, 1981, and on such date is repealed.

SEC. 79. Section 72121 of the Education Code is amended to read:

72121. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 48914 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at such meetings and shall be subject to the following requirements:

(a) Minutes must be taken at all such meetings, recording all actions taken by the governing board. Such minutes shall constitute public records, and shall be available to the public.

(b) An agenda shall be posted at a place where members of the public, including district employees, may view the same at least 48 hours prior to the time of regular meetings and at least 24 hours prior to special meetings. This agenda must include, but is not limited to, items on which the governing board may take action at that meeting.

SEC. 81. Section 81363.5 of the Education Code is amended to read:

81363.5. Except as provided for in Article 9 (commencing with Section 81190) of Chapter 1 of this part, the sale or lease with an option to purchase of real property by a community college district shall be in accordance with the following priorities and procedures.

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which such article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value;

(1) In writing, to the Director of General Services, the Regents of the University of California, the Trustees of the California State University and Colleges, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated; and

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations existing on December 31, 1979, and organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code then in effect or organized for charitable purposes on or after January 1, 1980, under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of

general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The written notice required by paragraph (1) of this subdivision shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the community college district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may, in its discretion, determine which of such offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law.

SEC. 82. The heading of Chapter 1.5 (commencing with Section 6300) of Division 6 of the Elections Code is amended and renumbered to read:

CHAPTER 4. DEMOCRATIC PRESIDENTIAL PRIMARY

SEC. 83. Section 25301 of the Elections Code is amended to read:

25301. Except in the case of a judicial office filled in accordance with subdivision (d) of Section 16 of Article VI of the Constitution, every candidate for a judicial office, not more than 15 nor less than five days prior to the first day on which his nomination papers may be circulated and signed or may be presented for filing, shall file in the office of the county clerk in which his nomination papers are required to be filed or left for examination, a written and signed declaration in duplicate of his intention to become a candidate for that office on a form to be supplied by the county clerk. A candidate for a numerically designated judicial office shall state in his declaration for which office he intends to become a candidate. A copy of each declaration of intention filed in accordance with this article, except those for municipal and justice court offices, shall be immediately forwarded by the county clerk to the Secretary of State. This section shall apply to all judicial offices whether numerically designated or not.

SEC. 84. Section 1361 of the Financial Code is amended to read:

1361. In notes with a maturity not exceeding 15 months after the

date of issue, issued in anticipation of uncollected taxes, income, revenue, cash receipts, and other moneys of the State of California or any city, county, city and county, or school district thereof; provided the notes and warrants and the interest thereon shall be a first lien and charge against, and shall be payable from, the first moneys received by the local agency from such pledged moneys; provided the total amount of the notes issued at any one time or during any specified period does not exceed 85 percent of the receipts or revenues.

In grant anticipation notes issued by the agencies and payable not later than 36 months after the date of issue, provided that the total amount of the notes and interest payable thereon issued at any one time or during any specified period does not exceed 80 percent of the grant funds stated in writing by the granting authority as committed, appropriated and shall be paid on a specified date or dates within a 36-month period from the dating of the notes.

SEC. 85. Section 3373 of the Financial Code is amended to read:

3373. (a) For the purpose of this article "loan" includes a making or renewal of any loan, a granting of a line of credit, or an extending of credit in any manner whatsoever, and includes:

(1) A purchase under repurchase agreement of securities, other assets, or obligations;

(2) An advance by means of an overdraft, cash item, or otherwise;

(3) Issuance of a standby letter of credit (or other similar arrangement regardless of name or description) or acceptance of a time draft which does not meet the requirements for discount with a Federal Reserve Bank;

(4) An acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which a person may be liable as maker, drawer, endorser, guarantor, or surety;

(5) A discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, but the acquisition of such paper by a bank from another bank, without recourse, shall not be considered a discount by the bank for the other bank;

(6) An increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for (i) accrued interest or (ii) taxes, insurance, or other expenses incidental to the existing indebtedness;

(7) An advance of unearned salary or other unearned compensation for a period in excess of 30 days; and

(8) Any other transaction as a result of which a person becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

(b) For the purpose of this article "loan" does not include:

(1) Advances against accrued salary or other accrued compensation, or advances for the payment of authorized travel or

other expenses incurred or to be incurred on behalf of the bank.

(2) The receipt by a bank of any check deposited in or delivered to the bank in the usual course of business unless it results in the carrying of a cash item or the granting of an overdraft

(3) The acquisition of any note, draft, bill of exchange, or other evidence of indebtedness (i) through a merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or similar organization or (ii) through foreclosure on collateral or similar proceeding for the protection of the bank, provided that such indebtedness is not held for a period of more than three years from the date of acquisition, subject to extension by the superintendent for good cause.

(4) The endorsement or guarantee for the protection of a bank of any loan or other asset previously acquired by such bank in good faith.

(5) Any indebtedness for the purpose of protecting a bank against loss or giving financial assistance to it.

(6) Indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement under which a bank (i) acquires charge or time credit accounts or (ii) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar plan; provided, that such indebtedness does not involve prior individual clearance or approval by the bank other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement and such indebtedness is incurred under terms that are not more favorable than those offered to the general public.

(c) The board of the bank may fix the aggregate amount of credit which may be extended during a given period not in excess of 14 months to any borrower pursuant to this article. Such bank may make advances and renewals pursuant to the board's authorization without further action by the board.

SEC. 86. Section 3504 of the Financial Code is amended to read:

3504. Each corporation shall have power, under such rules and regulations as the superintendent may prescribe:

(a) To purchase, sell, discount, and negotiate, with or without its endorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its endorsement or guaranty, securities, including the obligations of the United States or of any state thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the superintendent may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and under such limitations as the superintendent may prescribe; to receive deposits outside of the United States and to receive only such

deposits in this state or in any other state of the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States.

(b) Generally, to exercise such powers as are incidental to the powers conferred by this article or as may be usual, in the determination of the superintendent, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the power specifically granted herein. Nothing contained in this article shall be construed to prohibit the superintendent, under his power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation receives deposits in the United States authorized by this article it shall, unless it is subject to reserve requirements of the Board of Governors of the Federal Reserve System, comply with and be subject to the provisions of Article 3 (commencing with Section 1250) of Chapter 10 applicable to commercial banks.

(c) To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in any state of the United States, and in the dependencies or insular possessions of the United States, at such places as may be approved by the superintendent and under such rules and regulations as he may prescribe, including any state of the United States, or countries or dependencies not specified in the original organization certificate.

(d) With the consent of the superintendent, to purchase and hold stock or other certificates of ownership in any other corporation organized under the laws of this state for the purpose of transacting business pursuant to this article, or under the laws of the United States, or under the laws of any foreign country or a colony or dependency thereof, or under the laws of any state, dependency, or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and not transacting any business in the United States except that which in the judgment of the superintendent may be incidental to its international or foreign business.

SEC. 87. Section 18315 of the Financial Code, as added by Chapter 911 of the Statutes of 1979, is amended and renumbered to read:

18314.5. An industrial loan company shall not hold lease obligations of any one person as primary obligor in an aggregate amount due in excess of 5 percent of the unimpaired capital and surplus of the company not available for dividends as provided in Section 18319.

SEC. 88. Section 18316 of the Financial Code, as added by

Chapter 911 of the Statutes of 1979, is amended and renumbered to read:

18314.6. Outstanding lease obligations shall not exceed in the aggregate 20 percent of the company's outstanding loans and obligations. The commissioner may, by written order directed to a company or by regulation, impose a limitation on the aggregate amount of lease obligations held by an industrial loan company, as the commissioner deems reasonable and necessary or advisable for the protection of the company or the public.

SEC. 89. Section 18530 of the Financial Code is amended and renumbered to read:

18350. Each industrial loan company shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of this division, as estimated by the commissioner for the ensuing year and of any deficit actually incurred or anticipated in the administration of this division in the year in which the assessment is made. The pro rata share shall be the proportion which a company's assets bear to the aggregate assets of all companies as shown by the latest annual reports of the companies to the commissioner. The pro rata share shall not include the costs of any examinations provided for in Section 18392, unless they cannot be collected from the company examined.

SEC. 90. Section 18617.2 of the Financial Code is repealed.

SEC. 91. Section 221 of the Food and Agricultural Code is amended to read:

221. The "Department of Food and Agriculture Fund," which is a special fund, is continued in existence. Any money which is directed by law to be paid into the fund shall be paid into it and, unless otherwise specifically provided, shall be expended solely for the enforcement of the law under which such money was derived. The expenditure from the fund for the enforcement of any law shall not, unless otherwise specifically provided, exceed the amount of money which is credited to the fund pursuant to such law.

All money deposited in the fund is hereby continuously appropriated to the department without regard to fiscal years for expenditure in carrying out the purposes for which the money was deposited and for making the refunds authorized by Section 302.

All money deposited in the fund under the provisions enumerated below are hereby exempted from the provisions of Sections 13320 to 13324, inclusive, of the Government Code.

(a) Part 1 (commencing with Section 16301) and Part 2 (commencing with Section 17401) of Division 9.

(b) Division 10 (commencing with Section 20001).

(c) Division 11 (commencing with Section 23001).

(d) Article 3 (commencing with Section 40561) of Chapter 1 of Division 16.

(e) Article 8 (commencing with Section 40931) of Chapter 2 of Division 16.

(f) Article 4 (commencing with Section 41191) of Chapter 3 of

Division 16.

SEC. 92. Section 11410 of the Food and Agricultural Code is amended to read:

11410. Except as provided in Section 12001, "agricultural pest control adviser" means any person who offers a recommendation or who holds himself forth as an authority on any agricultural use, or a general adviser on any agricultural use who solicits services or sales.

SEC. 93. Section 11893 of the Food and Agricultural Code is amended to read:

11893. Any person who violates any provision of this division, or any regulation issued pursuant to a provision of this division, shall be liable civilly in an amount not exceeding five hundred dollars ($500) for each violation. Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department in administering the provisions of this division, and Division 7 (commencing with Section 12501).

SEC. 94. Section 12024 of the Food and Agricultural Code is amended to read:

12024. The director by regulation shall establish the minimum requirement for pest control adviser by education, experience, and examination to carry out the purposes of this division.

SEC. 95. Section 12998 of the Food and Agricultural Code is amended to read:

12998. Any person who violates any provision of this division, or any regulation issued pursuant to a provision of this division, shall be liable civilly in an amount not exceeding five hundred dollars ($500) for each violation. Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department in administering the provisions of this division, and Division 6 (commencing with Section 11401).

SEC. 96. Section 52872 of the Food and Agricultural Code is amended to read:

52872. Within 90 days after January 1, 1979, the director shall establish a list of growers and other persons and organizations subject to the provisions of this chapter. Each person or organization on the list shall have one vote in any election conducted pursuant to Sections 52871 and 52873 in which such person or organization is authorized to vote.

SEC. 97. Section 52891 of the Food and Agricultural Code is amended to read:

52891. The powers or duties of the board shall include, but not be limited to, all of the following:

(a) Establish the Acala quality standard for all cotton grown within the district. When determining the standard the board shall consider fiber length, strength, uniformity, micronaire, seed quality, productivity, resistance to disease, including verticillium wilt, and spinning characteristics.

(b) Annually review test data and approve for release and planting within the district, cotton varieties which meet the existing

Acala quality standard but are superior in some meaningful respect, as determined by the board, and which is generally recognized by the cotton industry to be an essential factor in producing cotton within the district, or significant area within the district.

(c) Conduct or commission tests for cotton production and quality evaluation in accordance with procedures to be adopted pursuant to Section 52902, and assess fees necessary for administering such tests.

(d) Conduct periodic referendums, as specified in this chapter, regarding the continuation of the one variety district. A referendum shall also be conducted whenever the board proposes substantive changes in the Acala quality standard.

(e) Require all cotton varieties approved for release for planting, and produced in the district, to contain the word "Acala" in labeling.

(f) The board shall advise and make recommendations to the director on all matters pertaining to this chapter including, but not limited to, the program for enforcing the provisions of this chapter and the setting of an appropriate seed assessment rate necessary for the administration of this chapter.

SEC. 98. Section 60854 of the Food and Agricultural Code is amended and renumbered to read:

68054. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his duties and responsibilities under this chapter; provided, however, that the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of responsibility for payment of the director's legal costs with regard to such action.

SEC. 99. The heading of Article 9 (commencing with Section 68131) of Chapter 6 of Division 22 of the Food and Agricultural Code is amended and renumbered to read:

Article 8. Continuation, Suspension, and Termination

SEC. 100. Section 965.2 of the Government Code is amended to read:

965.2. The Controller shall draw his warrant for the payment of any final judgment or settlement against the state whenever, unless the judgment or settlement arose out of the activities of the Department of Transportation, the Director of Finance certifies that a sufficient appropriation for such payment exists. Claims upon such judgments and settlements are exempt from Section 925.6.

SEC. 101. The heading of Chapter 23 (commencing with Section 7800) of Division 7 of Title 1 of the Government Code is amended and renumbered to read:

CHAPTER 24. DOCUMENTS AND WRITTEN REPORTS

SEC. 102. Section 7800 of the Government Code is amended and renumbered to read:

7550. (a) Any document or written report prepared for or under the direction of a state or local agency, which is prepared in whole or in part by nonemployees of such agency, shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report; provided, however, that the total cost for work performed by nonemployees of the agency exceeds five thousand dollars ($5,000). The contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.

(b) When multiple documents or written reports are the subject or product of the contract, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

SEC. 103. Section 8898 of the Government Code is amended to read:

8898. To implement the foregoing responsibilities, the commission may:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, in earthquake-related activities and to advise the Governor and Legislature thereon;

(b) Review earthquake-related legislation proposals, to advise the Governor and Legislature concerning such proposals, and to propose needed legislation;

(c) Recommend the addition, deletion, or changing of state agency standards when, in the commission's view, the existing situation creates an undue seismic hazard or when new developments would promote seismic safety, and conduct public hearings as deemed necessary on the subjects; and

(d) In the conduct of any hearing, investigation, inquiry, or study which is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

SEC. 104. Section 11092 of the Government Code, as added by Chapter 400 of the Statutes of 1974, is repealed.

SEC. 105. Section 11445 of the Government Code is amended and renumbered to read:

11355. (a) Except as provided in subdivision (b), Article 5 (commencing with Section 11346) and Article 7 (commencing with Section 11350) shall not apply to the Public Utilities Commission or the Industrial Accident Commission, and Article 3 (commencing with Section 11343) and Article 4 (commencing with Section 11344) shall apply only to the rules of procedure of these state agencies.

(b) The Public Utilities Commission and the Division of Industrial Accidents shall comply with the provisions of subdivision (b) of Section 11346.4 with respect to regulations which are required to be filed with the Secretary of State pursuant to Section 11343.

SEC. 106. Section 11446 of the Government Code is amended and

renumbered to read:

11356. The provisions of Article 6 (commencing with Section 11349) shall not be applicable to any building standards subject to the approval of the State Building Standards Commission.

SEC. 107. The heading of Chapter 6 (commencing with Section 13894) of Part 3.2 of Division 3 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 5. TERM

SEC. 108. Section 16115 of the Government Code is amended to read:

16115. (a) Out of the amount appropriated by Section 16100, the Controller shall pay on or before September 15th of each year to each county auditor the amount claimed under subdivision (a) of Section 16113.

(b) Out of the amount appropriated by Section 16100, the Controller shall pay on or before December 30th of each year to the county auditor one-half of the amount claimed under subdivision (b) of Section 16113 and shall pay the other one-half so claimed on or before April 30th.

(c) Out of the amount appropriated by Section 16100, the Controller shall pay on or before November 15th of each year to each county auditor the amount claimed under subdivision (d) of Section 16113.

(d) Prior to paying any claim pursuant to subdivisions (a) and (b), the Controller shall reduce the amount of the counties' share by an amount equal to the amount of excess transfer as determined pursuant to paragraph (3) of subdivision (b) of Section 16260.

(e) "Excess transfer" means that the amount of money subtracted pursuant to paragraphs (2) and (3) of subdivision (b) of Section 16260 which is larger than the amount in paragraph (1) of that subdivision.

(f) The amount subtracted pursuant to subdivision (d) shall serve to reduce the county amount only and not any amount for any school district, community college district, county superintendent of schools, or other local agency, other than the county.

SEC. 109. Section 16260 of the Government Code is amended to read:

16260. (a) Except as provided in subdivision (x), out of the amount appropriated by Section 16100, there shall be allocated for counties and cities and counties, for the 1978–79 fiscal year only four hundred thirty-six million dollars ($436,000,000) to be distributed as provided in subdivisions (b), (c), (d), and (e).

(b) (1) For each county and city and county, the amount of property taxes collected, plus the amount of homeowners' and business inventory exemption reimbursements, for the 1977–78 fiscal year shall be computed by the Controller.

(2) From the amount determined pursuant to paragraph (1),

there shall be subtracted the amount determined for each county and city and county in 1978–79 pursuant to Section 26912.1.

(3) From the remainder determined pursuant to paragraph (2), there shall be subtracted the dollar amount of a county's obligation in 1978–79 relieved by Sections 33 and 34 of Chapter 292 of the Statutes of 1978.

(4) The amount determined pursuant to paragraph (3) shall be aggregated for counties and cities and counties in the state.

(5) The Controller shall then determine what the percentage of the amount computed for each county and city and county pursuant to paragraph (3) is of the total statewide amount computed pursuant to paragraph (4).

(6) The percentage determined pursuant to paragraph (5) shall be applied to the amount described in subdivision (a), modified by subdivision (x) if applicable, to determine the dollar share of the surplus allocation for each county and city and county.

(c) From each county's or city and county's surplus allocation, there shall be subtracted an amount equal to one-third of the amount by which the county's or city and county's general fund reserve balance on July 1, 1978, as defined in subdivision (e), exceeds 5 percent of the county's or city and county's total 1977–78 revenues.

(d) The remainder determined in subdivision (b) minus the amount determined in subdivision (c), if positive, shall be distributed to each county and city and county by the Controller in accordance with the following schedule:

Thirty-three percent—on August 31, 1978, or a subsequent date if the information needed by the Controller is not available by this date.

Thirty-three percent—on December 10, 1978.

Thirty-four percent—on May 10, 1979.

(e) As used in this section, "general fund reserves" includes the fund balance available as of June 30, 1978, of the general fund. "General fund reserves" shall not include:

(1) Noncash assets such as stores, inventory, property and buildings, or other investments purchased prior to June 6, 1978.

(2) Any amounts for self-insurance, for contractual obligations, or for reserves established by law or a governing board policy adopted prior to June 6, 1978.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the board of supervisors.

(f) For the purpose of this section, the amount of property tax collections pursuant to existing law for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, shall be excluded from all calculations.

(g) Funds distributed pursuant to this section shall be given first for police, sheriff, and fire protection programs in order not to jeopardize the health and safety of the community. The legislative

body shall ensure that the level of police, sheriff, and fire protection programs actually provided in the 1977–78 fiscal year shall be continued in 1978–79.

Nothing in this section shall prevent the legislative body from reviewing and establishing its police, sheriff, and fire protection program in the 1978–79 fiscal year in a manner which will make such program more efficient and effective.

Any determination by the legislative body implementing this section is hereby declared to be a legislative act.

(h) The Controller shall estimate the amounts required to be determined pursuant to paragraph (3) of subdivision (b).

The Controller shall make any necessary reconciliation no later than August 30, 1979.

(x) The amount allocated in subdivision (a) shall be reduced by an amount equal to the county share of any cost-of-living increase in aid payments under the Aid to Families With Dependent Children program, as provided in Section 35 of Chapter 292 of the Statutes of 1978.

SEC. 110. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The office of county superintendent of schools with respect to its employees whose compensation is not paid from county funds and with respect to employees of school districts within the jurisdiction of the superintendent which are not contracting agencies.

(b) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(c) Any foundation or trust established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of the California State University and Colleges or a community college.

(d) Any student body or nonprofit organization composed exclusively of students of the California State University and Colleges or a community college or of members of the faculty of the California State University and Colleges or a community college, or both, and established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of the California State University and Colleges or a community college.

(e) The Adjutant General with respect to persons employed by him pursuant to federal regulations and compensated directly from federal funds.

(f) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(g) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(h) A section of the California Interscholastic Federation.

(i) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of the Public Employees' Retirement System or the State Teachers' Retirement System, and their immediate families, and employees of any such credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of the Public Employees' Retirement System or the State Teachers' Retirement System. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All such payments made by the credit union which are in addition to the normal charges required shall be added to the total amount appropriated by the budget act for the administrative expense of the system.

SEC. 111. Section 23353 of the Government Code is amended to read:

23353. The notice of election shall:

(a) State distinctly the propositions to be submitted.

(b) State the names of the affected county or counties.

(c) State the date of the election.

(d) Designate the election precincts and places at which the polls will be open as established by the board of each affected county.

(e) Instruct the voters as to the methods and procedures of voting in the election.

(f) Request the submission of written arguments for and written arguments against the creation of the proposed county.

(g) Include a statement that the board of supervisors of an affected county or any member or members of such board authorized by the board, any city council of a city within an affected county or any member or members of such council authorized by the council, any qualified elector entitled to vote at the election, any bona fide association of citizens, or any combination of qualified electors and associations may submit and file written arguments with the clerk of the principal county for printing and distribution in the ballot pamphlet, in accordance with Section 3784 of the Elections Code.

(h) Include a statement that only one argument for and one argument against shall be selected and printed in the ballot.

(i) Include a statement that arguments shall not exceed 500 words in length and shall be accompanied by at least one and not more than three signatures.

(j) Include a description of the boundaries of the proposed county.

SEC. 112. Section 26156 of the Government Code, as added by Chapter 779 of the Statutes of 1973, is amended and renumbered to read:

26157. For purposes of assisting in the development of the human resources of the county, the board of supervisors may provide for the testing of individuals to determine such individual's level of educational achievement and job capabilities, both actual and potential; provided, however, that such testing may be done only upon the request of the individual to be tested.

SEC. 113. Section 26508 of the Government Code, as added by Chapter 559 of the Statutes of 1979, is amended and renumbered to read:

26509. (a) Notwithstanding any other provision of law, including any provision making such records confidential, and including the provisions of Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the district attorney shall be given access to, and may make copies of, any complaint against a person subject to regulation by a consumer-oriented state agency and any investigation of such a person made by such an agency, where that person is being investigated by the district attorney regarding possible consumer fraud.

(b) Where the district attorney does not take action with respect to such complaint or investigation, such material shall remain confidential.

(c) Where the release of such material would jeopardize an investigation or other duties of a consumer-oriented state agency, such an agency shall have discretion to delay the release of such information.

(d) As used in this section, a consumer-oriented state agency is any state agency which regulates the licensure, certification, or qualification of persons to practice a profession or business within the state, where such regulation is for the protection of consumers who deal with such professionals or businesses. It includes, but is not limited to, all of the following:

(1) The Board of Dental Examiners of California.

(2) The Board of Medical Quality Assurance of the State of California.

(3) The State Board of Optometry.

(4) The California State Board of Pharmacy.

(5) The Board of Examiners in Veterinary Medicine.

(6) The State Board of Accountancy.

(7) The California State Board of Architectural Examiners.

(8) The State Board of Barber Examiners.

(9) The State Board of Registration for Professional Engineers.

(10) The Contractors' State License Board.

(11) The State Board of Cosmetology.

(12) The State Board of Funeral Directors and Embalmers.

(13) The Structural Pest Control Board.

(14) The Bureau of Home Furnishings.

(15) The Board of Registered Nursing.

(16) The State Board of Fabric Care.

(17) The Board of Chiropractic Examiners.

(18) The Board of Behavioral Science Examiners.
(19) The State Athletic Commission.
(20) The Cemetery Board.
(21) The State Board of Guide Dogs for the Blind.
(22) The Bureau of Collection and Investigative Services.
(23) The Certified Shorthand Reporters Board.
(24) The Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.
(25) The California State Board of Landscape Architects.
(26) The Bureau of Repair Services.
(27) The Bureau of Employment Agencies.
(28) The Board of Osteopathic Examiners.
(29) The Division of Investigation.
(30) The Bureau of Automotive Repair.
(31) The State Board of Registration for Geologists and Geophysicists.
(32) The State Board of Examiners of Nursing Home Administrators.
(33) The Department of Alcoholic Beverage Control.
(34) The Department of Insurance.
(35) The Public Utilities Commission.
(36) The State Department of Health Services.
(37) The New Motor Vehicle Board.

SEC. 114. Section 29062 of the Government Code is amended to read:

29062. The tabulation shall be submitted to the board by the auditor, or by the administrative officer if designated by the board, on or before June 30th of each year, as the board directs.

SEC. 115. Section 30236 of the Government Code is amended and renumbered to read:

32036. If any member of the system is separated from the service of the county before retirement for any cause other than for death or permanent disability, any contributions made by him shall become part of the retirement fund. If the separation is caused by death or disability, there shall be paid to him or his heirs all his contributions to the fund and one-half of all interest credited to his account.

Any contributions paid into the system by a member prior to the ninety-first day after the final adjournment of the 1947 Regular Session of the Legislature shall be returned to any member upon his separation from service of the county in the same manner as provided in this section for payment upon separation caused by death or disability.

SEC. 116. Section 31671.7 of the Government Code is repealed.

SEC. 117. Section 31805.1 of the Government Code is amended to read:

31805.1. Effective with the approval of this section the service retirement allowances of those heretofore retired shall be recalculated as though Section 31805 had not been enacted.

SEC. 118. Section 31846 of the Government Code is amended to read:

31846. Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to his death and who is survived by one or more children, during such time as no eligible spouse is entitled to a survivor's allowance pursuant to this article, if the father or mother having custody or guardian of such child or children waives the amount, if any, payable as a death benefit pursuant to Section 31781, such child or children shall be entitled to a monthly survivor's allowance equal to the sum, based upon the member's compensation at the time of his death and the number of children, specified in Section 31849 minus the amount to which such children are entitled pursuant to Section 31765, 31765.1, 31781.1, 31781.2, or 31787.

SEC. 119. Section 39581 of the Government Code is amended to read:

39581. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale provided for ordinary municipal taxes.

The legislative body may determine that, in lieu of collecting the entire assessment at the time and in the manner of ordinary municipal taxes, such assessments of fifty dollars ($50) or more may be made in annual installments, in any event not to exceed five, and collected one installment at a time at the times and in the manner of ordinary municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for foreclosure and sale provided for ordinary municipal taxes. The payment of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the legislative body, not to exceed 6 percent per annum.

SEC. 120. Section 43073 of the Government Code is amended to read:

43073. (a) The legislative body of any city which is encompassed entirely within the territory of a special district may elect to pay the district an amount equal to the amount the district would derive from its tax on all property within the incorporated limits of the city.

(b) If a legislative body makes an election pursuant to subdivision (a), the legislative body may increase the city's property tax rate to produce an amount equal to the amount the district would have derived from imposition of its tax on property within the city.

(c) If a city legislative body makes an election pursuant to subdivision (a), the district shall no longer impose the tax on property within the city, and upon collection of city taxes, the amount shall be paid by the city or transferred by the county auditor to the district.

(d) If the legislative body of a city makes an election pursuant to subdivision (a), the legislative body shall notify the county auditor, county assessor, and county tax collector by no later than the first day

of September of the fiscal year in which the election becomes effective, and the county auditor shall not extend the stated portion of the district's tax on property within the city. Upon the request of the city legislative body, the county tax collector shall list each involved district on the property tax bill or an accompanying statement, clearly indicating that the city has elected to include the cost of the special district service in the city tax rate.

(e) For purposes of this section, "special district" means any special district where the county board of supervisors acts as, or has appointed, the governing body of such districts providing fire or library services to one or more cities or any county library service established under Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code provided for one or more cities, if all property within the city is taxed to support the service.

(f) This section shall not apply in any case in which a city is making the payments described in this section to a district on the effective date of this section.

(g) If any additional costs are incurred by a county as a result of an election under this act by a city, the county may collect such costs from the city.

(h) This section shall apply only to cities which are in counties which have a population of 6,000,000 or more.

SEC. 121. Section 51230 of the Government Code is amended to read:

51230. Beginning January 1, 1971, any county or city having a general plan, and until December 31, 1970, any county or city, by resolution, and after a public hearing may establish an agricultural preserve. Notice of the hearing shall be published pursuant to Section 6061, and shall include a legal description, or the assessor's parcel number, of the land which is proposed to be included within the preserve. The preserves shall be established for the purpose of defining the boundaries of those areas within which the city or county will be willing to enter into contracts pursuant to this act. An agricultural preserve shall consist of no less than 100 acres; provided, that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership; and further provided, that in order to meet this requirement land zoned as timberland preserve pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

A county or city may establish agricultural preserves of less than 100 acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the general plan of the county or city.

An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two years of the effective date of any contract on land within the preserve be restricted by zoning or other suitable means in such a way as not to be incompatible with the agricultural

use of the land, the use of which is limited by contract in accordance with this chapter.

Failure on the part of the board or council to restrict the use of land within a preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.

SEC. 122. Section 53072 of the Government Code, as added by Chapter 1378 of the Statutes of 1976, is amended and renumbered to read:

53074. Notwithstanding any other provision of law or any local ordinance, an officer or employee of any animal control agency shall not seize or impound a dog for the violation of an ordinance requiring a dog to be leashed or issue citations for the violation of such ordinance when the dog has not strayed from and is upon private property owned by the dog owner or the person who has a right to control the dog, or upon private property to which the dog owner or person who has a right to control the dog has a right of possession.

A dog that has strayed from but then returned to the private property of his owner or the person who has a right to control the dog shall not be seized or impounded, but in such a case a citation may be issued; provided, however, that if in such a situation the owner or person who has a right to control the dog is not home, the dog may be impounded, but the officer or employee of any animal control agency shall post a notice of such impounding on the front door of the living unit of the owner or person who has a right to control the dog. Such notice shall state the following: that the dog has been impounded, where the dog is being held, the name, address, and telephone number of the agency or person to be contacted regarding release of the dog, and an indication of the ultimate disposition of the dog if no action to regain it is taken within a specified period of time by its owner or by the person who has a right to control the dog.

This section shall not otherwise affect existing authority to seize or impound a dog or issue citations, as a result of a dog's being on property other than that owned by its owner or the person who has a right to control the dog.

This section shall not be construed as prohibiting any person from killing a dog in the situations authorized by Sections 31102, 31104, and 31152 of the Food and Agricultural Code.

SEC. 123. Section 53205 of the Government Code is amended to read:

53205. From funds under its jurisdiction, the legislative body may authorize payment of all or such portion as it may elect of the premiums, dues, or other charges for health and welfare benefits of officers, employees, retired employees, and retired members of the legislative body subject to its jurisdiction.

Such expenditures are charges against the funds. If the employer pays any portion of the premiums, dues or other charges for such health and welfare benefits, any dividends paid or premiums

refunded or other rebates or refunds under any such health and welfare benefits up to the aggregate expenditures of the employer for such benefits are the employer's property. The excess, if any, shall be applied by the employer for the benefit of such employees or their dependents generally.

SEC. 124. The heading of Article 11 (commencing with Section 53920) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code is amended and renumbered to read:

Article 11.5. Destruction of Bonds Previously Paid and Canceled

SEC. 125. Section 54000 of the Government Code is amended to read:

54000. Upon application to the Department of Transportation, a flood control district, county, or city, and subject to any conditions imposed by it, permission may be granted to any person, or riding club to enter, traverse, and use for horseback riding, any trail, right of way, easement, river, flood control channel, or wash, owned or controlled by the state, a city, or county.

SEC. 126. The heading of Article 4 (commencing with Section 54096) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code is amended and renumbered to read:

Article 4.5. Reconstruction of Buildings

SEC. 127. The heading of Article 4.5 (commencing with Section 54125) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code is amended and renumbered to read:

Article 5. Earthquake Relief

SEC. 128. The heading of Article 5 (commencing with Section 54140) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code is amended and renumbered to read:

Article 6. Federal Surplus Property

SEC. 129. Section 54921 of the Government Code, as added by Chapter 223 of the Statutes of 1973, is amended and renumbered to read:

54922. Notwithstanding Sections 54902 and 54903, any formation of recreation and park districts approved by the voters at elections conducted on or before June 26, 1973, shall be effective for assessment and taxation purposes for the 1973–74 fiscal year if the required statements and map or plat are filed on or before July 15, 1973.

SEC. 130. Section 54976 of the Government Code is amended and renumbered to read:

53976. (a) If no protests or objections in writing have been

delivered to the clerk up to the hour set for hearing thereon, or if such valid protests have been found by the legislative body to be less than a majority, or have been overruled, the legislative body may, upon the conclusion of the hearing adopt, revise, change, reduce, or modify each or any standby or availability charge. The legislative body shall make a determination upon each such charge as described in the report or as determined at the hearing, and thereafter, by ordinance, shall determine and assess such charges.

(b) The legislative body may provide for the collection of the standby and availability charges in the same manner, and subject to the same penalties as, other charges and taxes fixed and collected by, or on behalf of the local agency. If such charges are collected by the county, the county may deduct its reasonable costs incurred for such service before remittal of the balance to the local agency's treasury.

SEC. 131. The heading of Chapter 11 (commencing with Section 54980) of Part 1 of Division 2 of Title 5 of the Government Code is amended and renumbered to read:

CHAPTER 12. MUNICIPAL SERVICES AND FUNCTIONS

SEC. 132. Section 65863.5 of the Government Code, as added by Chapter 947 of the Statutes of 1979, is amended and renumbered to read:

65863. In carrying out the provisions of this chapter, each county and city shall consider the effect of ordinances adopted pursuant to this chapter on the housing needs of the region in which the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources. Any ordinance adopted pursuant to this chapter which, by its terms, limits the number of housing units which may be constructed on an annual basis shall contain findings as to the public health, safety, and welfare of the city or county to be promoted by the adoption of the ordinance which justify reducing the housing opportunities of the region.

SEC. 133. Section 66796.83 of the Government Code, as added by Chapter 87 of the Statutes of 1978, is amended and renumbered to read:

66796.84. The board may grant waivers of individual standards adopted pursuant to this title only when the board has determined either of the following:

(a) That a hardship exists or will exist if no waiver is granted and that granting a waiver will further state policies or will relieve the hardship.

(b) That the operation is an experimental one designed to develop new methods or technology and that granting the waiver will significantly facilitate implementation of state policy.

Any request for a waiver shall be accompanied by detailed information justifying the waiver and demonstrating that no significant adverse health, safety, or environmental impacts will

result from the waiver. The board may place conditions on the waiver and shall reexamine each waiver at least every two years to determine whether it should remain in force or should have more or different conditions.

SEC. 134. Section 68519 of the Government Code, as added by Chapter 1280 of the Statutes of 1975, is amended and renumbered to read:

68519.5. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in San Bernardino County. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the Board of Supervisors of San Bernardino County and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reports of the county·

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose; and

(5) Such other information as the Judicial Council may require.

SEC. 135. Section 68521 of the Government Code, as added by Chapter 1452 of the Statutes of 1976, is amended and renumbered to read:

68521.5. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in San Diego County. The records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of the county and to the Legislature summarizing the information contained in the records.

(c) Each annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for the transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of the transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

SEC. 136. The heading of Article 2 of Chapter 5 of Title 8 of the

Government Code is repealed.

SEC. 137. Section 69894.4 of the Government Code, as amended by Chapter 579 of the Statutes of 1977, is amended and renumbered to read:

69894.6. Notwithstanding the provisions of Section 69894.1, in the County of Los Angeles a majority of the judges of the superior court may appoint 260 court reporters, each of whom shall receive a salary equivalent to the schedule designation 50L in the salary ordinance of the county. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

Reduction of the schedule applicable to court reporters by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbent court reporters. The court may regulate by rule the status of employees so affected.

SEC. 138. Section 70128 of the Government Code, as added by Chapter 1472 of the Statutes of 1976, is amended and renumbered to read:

70129. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Humboldt County. The records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of the county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for the transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of the transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

(5) Any other information as the Judicial Council may require.

SEC. 139. Section 71040.5 of the Government Code, as added by Chapter 10 of the Statutes of 1975, is amended and renumbered to read:

71040.6. Notwithstanding the provisions of Section 71040, the portion of the City of San Diego lying south of the City of Chula Vista and the portion of the City of San Diego lying within San Diego Bay south of a westerly continuation of the northern boundary of National City to the point of intersection with the eastern boundary of the City of Coronado shall be part of the South Bay Municipal Court District and the remainder of the City of San Diego shall be part of the San Diego Municipal Court District.

SEC. 140. Section 72604.1 of the Government Code, as added by Chapter 1238 of the Statutes of 1975, is amended and renumbered to read:

72604.5. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of those judicial districts in a county governed by the provisions of Section 72604.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for the transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of the transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

SEC. 141. Section 73565 of the Government Code is amended to read:

73565. The municipal court judges may, by a majority vote, appoint a municipal court administrator who shall be the clerk of the municipal court. The municipal court administrator shall serve at the pleasure of a majority of the judges. He shall receive a salary of two thousand two hundred ninety-two dollars ($2,292) monthly; provided, however, that the salary may be adjusted pursuant to Section 73568. He shall be the appointing authority for those positions listed in Section 73566.

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal court administrator among which shall be:

(a) To direct and coordinate the nonjudicial activities of the district.

(b) To coordinate the personnel practices in compliance with rules of the district and those of the County of Monterey.

(c) To prepare and administer the budget of the district.

(d) To coordinate with county agencies the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the district.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges relating to the business of the district, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of court attachés.

(f) To collect, compare, and analyze statistical data on a

continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal court.

(h) To prepare procedural guides for the personnel of the municipal court.

(i) To make arrangements for and attend all meetings of the judges, to assist in the preparation of the agenda, and to prepare minutes of the meetings of the judges.

(j) To serve as liaison for the district with other persons, committee boards, groups, and associations as directed by the presiding judge.

(k) To assist Monterey County justice courts upon request of the justice court judge and approval of the Monterey County Board of Supervisors.

SEC. 142. Section 73568 of the Government Code is amended to read:

73568. Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level to certain classes of positions of Monterey County. In order to maintain parity of compensation and employee benefits between attachés of the municipal court and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions the provisions of this section shall govern salary adjustments and employee benefits for attachés of the municipal court in Monterey County.

On the effective date of any amendment to such resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount.

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary resolution and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

Table of Positions

Court classification	County classification
Clerk and municipal court administrator	Clerk and municipal court administrator
Assistant clerk of the municipal court	Assistant clerk of the municipal court
Principal municipal court clerk	Principal municipal court clerk
Senior municipal court clerk	Supervising clerk II

Municipal court clerk	Superior court clerk
Senior stenographer-clerk	Senior stenographer-clerk
Stenographer-clerk II	Stenographer-clerk II
Senior account clerk	Senior account clerk
Senior typist-clerk	Senior typist-clerk
Account clerk	Account clerk
Legal process clerk	Legal process clerk
Typist-clerk II	Typist-clerk II

Attachés of the municipal court district shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including, but not limited to, anniversary dates, changes thereto, and step advancements.

SEC. 143. Section 74695 of the Government Code, as added by Chapter 373 of the Statutes of 1979, is amended and renumbered to read:

74694.5. The fee for filing the complaint, or other first paper is thirteen dollars ($13), to include all proceedings before trial and all services to be performed in a judgment by default or for the trial of either a question of law or fact, including all affidavits, swearing witnesses and jury, and entry of judgment.

The fee for filing the first paper on behalf of any party, other than plaintiff, is eight dollars ($8), for each such party.

The fees provided herein shall be in lieu of those required by Sections 72055 and 72056.

SEC. 144. Section 74782 of the Government Code is amended to read:

74782. (a) Whenever reference to a numbered salary range is made in any section of this article, the schedule found in the salary and position allocation resolution of the County of Stanislaus in effect July 1, 1976, shall apply.

(b) Except as otherwise provided in this article, each new officer or employee shall for the first six full calendar months of continuous service receive a salary at the monthly rate specified for step 1 of the applicable range; on the first day of the next calendar month thereafter, his salary may increase to the rate of step 2; after one, two and three additional years of continuous service, his salary may increase to the rates for steps 3, 4, and 5, respectively. These increases shall be granted only with the approval of the officer's or employee's appointing authority.

(c) Notwithstanding any other provision of law, the salary of any officer or employee may be increased by the board of supervisors in order to provide compensation that is comparable to that of county employees of similar qualifications and experience, holding equal or comparable positions in the Stanislaus County classified service, as the comparability is determined by the board. If the salaries of incumbent officers and employees are increased to provide compensation that is comparable to that of county employees

holding comparable positions, the officers and employees may, with the approval of their appointing authority, retain the same salary step in the salary range made applicable to their position as they occupied under the superseded salary range. For the purpose of determining eligibility for subsequent annual increments, however, the officer's and employee's anniversary date for step advancement shall not change. Any pay increase authorized by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

(d) If any officer or employee in the service of the court is appointed or promoted to another office or position in such service which is compensated at a higher salary range, he shall receive step 1 of the salary range if step 1 is at least 5 percent higher than the salary received in the office or position relinquished; but if not, he shall receive initially that step of the salary range pertaining to such office or position which will provide not less than a 5-percent increase in his compensation. For the purpose of determining eligibility for subsequent annual increments, the officer's or employee's anniversary date for step advancement will be changed to the first day of the next calendar month following the date of promotion, unless the promotion is effective on the first regular working day of the month.

(e) If any officer or employee in the service of the court is demoted to another office or position, he shall receive compensation at the highest step of the salary range applicable to the position to which he is demoted which provides a salary not higher than that previously received by such person, except that if the demotion is due to disciplinary action, the appointing authority may specify any step rate of such salary range which provides compensation not higher than that last previously received by the person. For the purposes of determining eligibility for subsequent annual increments, the officer's or employee's anniversary date for step advancement will be changed to the first day of the next calendar month following the date of demotion, unless the demotion is effective on the first regular working day of the month.

SEC. 145. Section 74965 of the Government Code is amended to read:

74965. The clerk, subject to the provisions of Section 74968, with the approval of the presiding judge may appoint:

(a) Three municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range G 21.25.

(b) One municipal court clerk II, who shall receive a monthly salary at a rate specified in range G 19.00.

(c) Sixteen municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range G 15.50, or 16 typist-clerks II, each of whom shall receive a monthly salary at a rate specified in range G 14.00. The combined total of positions in the municipal court clerk I and typist-clerk II classifications shall not

exceed 16 positions.

(d) One account clerk II, who shall receive a monthly salary at a rate specified in range G 17.00, or one account clerk I, each of whom shall receive a monthly salary at a rate specified in range G 15.00. The combined total of positions in the account clerk II and account clerk I classifications shall not exceed one (1) position.

(e) Two interpreter-clerks who shall receive a monthly salary at a rate specified in range G 14.50.

SEC. 146. Section 75093.1 of the Government Code, as amended by Chapter 5 of the Statutes of 1980, is amended to read:

75093.1. Notwithstanding any other provision of this article, the surviving spouse of any judge who took office in January 1938 and who died in office October 1951 shall be entitled to receive a monthly allowance equal to four hundred dollars ($400) per month.

A surviving spouse who receives an allowance under this section shall have no other claim with respect to the Judges' Retirement Fund, or with respect to any other provisions of the Judges' Retirement Law, and such surviving spouse shall not be entitled to receive such allowance for any period prior to the effective date of this section.

SEC. 147. The heading of Part 1 (commencing with Section 100) of Division 1 of the Health and Safety Code is amended to read:

PART 1. STATE DEPARTMENT OF HEALTH SERVICES

SEC. 148. Section 155 of the Health and Safety Code is amended to read:

155. The following programs shall comply with the regulations established pursuant to this chapter:

(a) The California Children's Services Program under Article 2 (commencing with Section 249) of Chapter 2.

(b) Prenatal testing programs under Article 2.8 (commencing with Section 290) of Chapter 2.

(c) Medical testing programs for newborns under Article 3 (commencing with Section 300) of Chapter 2.

(d) Programs of the genetic disease unit under Section 309.

(e) Child health disability prevention programs under Article 3.4 (commencing with Section 320) of Chapter 2.

(f) Genetically handicapped person's programs under Article 3.6 (commencing with Section 340) of Chapter 2.

(g) Medi-Cal Benefits Program under Article 4.2 (commencing with Section 14131) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 149. Section 216 of the Health and Safety Code is amended to read:

216. (a) The chief and such inspectors of the Food and Drug Section as he may designate, are peace officers for the purpose only of carrying out the duties of their employment. The authority of any such peace officer shall extend to any place in the state as to any

public offense committed, or which there is reasonable cause to believe has been committed, within this state which is a violation of any provision of Division 21 (commencing with Section 26000), Division 22 (commencing with Section 27000) of this code, Chapter 3 (commencing with Section 27951) of Part 4 of Division 12, or Chapter 4 (commencing with Section 41301) of Division 16, of the Food and Agricultural Code. Such authority shall further extend to violations of any penal provision of this code, the Business and Professions Code or the Penal Code which are discovered in the course of and arise in connection with the employment of such officers.

(b) Any inspector of the Food and Drug Section shall have the authority, as a public officer, to arrest, without a warrant, any person who, in his presence, has violated, or as to whom there is probable cause to believe has violated, any provision of Division 21 (commencing with Section 26000) or Division 22 (commencing with Section 27000) of this code, Chapter 3 (commencing with Section 27951) of Part 4 of Division 12, or Chapter 4 (commencing with Section 41301) of Division 16, of the Food and Agricultural Code.

In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting inspector may, instead of taking such person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code. The provisions of such chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(c) There shall be no civil liability on the part of and no cause of action shall arise against any person, acting pursuant to subdivision (b) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting inspector, at the time of such arrest, had reasonable cause to believe was lawful. No such inspector shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(d) The chief and inspectors of the Food and Drug Section may serve all processes and notices throughout the state.

SEC. 150. A heading is added immediately preceding Section 429.90 of the Health and Safety Code, to read:

Article 18.5. Health Professions Planning Grants

SEC. 151. The heading of Chapter 2.5 of Part 1 of Division 1 of the Health and Safety Code is repealed.

SEC. 152. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter "health facility" means any facility,

place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: 24-hour care to residents who have a recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(f) "General acute care/rehabilitation hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, laboratory, radiology, pharmacy, dietary, occupational therapy, physical therapy, rehabilitation, audiology, speech pathology; surgical and anesthesia services are provided through a contract with another facility having such services.

(g) "Psychiatric health facility" means a health facility which provides 24-hour inpatient care for mentally disordered, incompetent, or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of

the Welfare and Institutions Code. Such care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings. It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a nonhospital setting. The State Department of Mental Health shall require regular utilization reviews of admission and discharge criteria and lengths of stays in order to assure that such patients are moved to less restrictive levels of care as soon as appropriate.

SEC. 153. Section 1250.2 of the Health and Safety Code is repealed.

SEC. 154. Section 1277 of the Health and Safety Code is amended to read:

1277. (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.

(b) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, except Sections 2137.1 and 2137.2 of the Business and Professions Code, the licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, pharmacists, registered nurses, and clinical social workers in the state and other governmental health facilities licensed by the state department shall not be less than for such professional personnel in health facilities under private ownership. Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the state department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of this subdivision. Additionally, the requirements of this subdivision may be waived by the state department solely for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure in such profession in this state. A waiver granted pursuant to this subdivision shall not exceed two years from the date the employment commences in this state in the case of psychologists, or three years from commencement of the employment in this state in the case of clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated. However, this durational limitation upon waivers shall not apply to active

candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but such limitations shall apply following completion of such training. A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the examination, subject to the one-year limit.

(c) A special permit shall be issued by the state department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

(d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership. The state department shall report to the Legislature by March 1 of each year any waivers of requirements imposed by its regulations granted during the prior calendar year to any health facility.

SEC. 155. Section 1320 of the Health and Safety Code is amended and renumbered to read:

1339.50. Notwithstanding any other provision of law, a county may by ordinance establish a department of the county which may combine in such department any or all of the functions specified in this section or related functions. The duties of such department shall be specified in the county ordinance establishing the department. Such duties may include the following:

(a) The performance of any function which is authorized by Section 1257 to be delegated to local health departments, to the extent delegated by the state department to the department established pursuant to this section. For purposes of this section and Section 1257, a department established pursuant to this section shall be deemed to be a local health department.

(b) The performance of any function which is authorized by Section 1511 to be delegated by the state department to a county, to the extent delegated by the state department to the department authorized by this section.

(c) The performance of any function in connection with, or related to, the certification of health facilities or community care facilities for participation in programs conducted pursuant to Title XVIII, Title XIX, or other provisions of the federal Social Security Act.

(d) The performance of any information and referral activities which are authorized by law to be performed by a county or any of its departments or officers in connection with health facilities or community care facilities.

(e) The performance of any function authorized by law to be performed by a county or any of its officers or departments in connection with the sanitation, maintenance, occupancy, or other aspects of the physical plant or environmental management of or concerning any health facility or community care facility. For purposes of this section, the department authorized by this section shall be deemed to be a county health department under the control of a county health officer with respect to any provision of law authorizing the performance of any function concerning any health facility or community care facility by a local health department or health officer.

(f) The determination of the suitability for county use, placements, or referrals of particular health facilities or community care facilities.

This section shall not be construed as authorizing the performance of any activity by any county which the county would not otherwise be authorized to perform. This section shall not operate as an independent grant of authority for the performance of any function by a county, but shall permit the consolidation in an existing or new county department of any or all functions which counties are authorized to perform in connection with the matters specified in this section.

For purposes of this section, "health facility" means a health facility as defined in Section 1250, and "community care facility" means a community care facility as defined in Section 1502.

SEC. 156. Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The provisions of this chapter shall apply to health care service plans and specialized health care service plan contracts as defined in subdivisions (f) and (n) of Section 1345.

(b) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class of persons or plan contracts if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.

(c) The commissioner, upon request of the State Director of Health Services, may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health Services pursuant to Article 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code. Such exemption may be subject to such conditions as the commissioner deems appropriate.

(d) The provisions of this chapter shall not apply to:

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through such entity-owned or contracting health facilities and providers, in which case the provisions of this chapter shall apply to the insurer's plan and to the insurer.

(2) A plan directly operated by a bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

SEC. 157. Section 1505 of the Health and Safety Code, as amended by Section 1 of Chapter 1105 of the Statutes of 1977, is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any neighborhood family day care home which is accredited by a school district pursuant to Section 8245 of the Education Code.

(d) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(e) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 362 of the Welfare and Institutions Code.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any residential facility exclusively serving persons of ages 16 to 19 years, inclusive, which is operated by a nonprofit corporation sponsored by a combination of well-recognized, bona fide churches or religious denominations for the purpose of providing moral and spiritual guidance to such persons as well as board, room, and care. In such a facility, all minors are placed in the custody thereof pursuant to a power of attorney executed by the minor's parent or guardian, or pursuant to an order of a court of competent jurisdiction, granting such facility complete authority over the person of the minor until rescinded or revoked. Such a facility shall not receive any form of grant assistance from any agency of federal, state, or local government for the provision of such care.

Any facility desiring an exemption under this subdivision shall make application to the state department, which shall grant the exemption if the facility meets the criteria specified in this subdivision. A facility exempted from licensure pursuant to this subdivision shall nevertheless be subject to all requirements of state

and local law and ordinances, including regulations adopted pursuant to this chapter, which prescribe standards of sanitation or fire and life safety applicable to the facility.

(h) Any school dormitory or similar facility determined by the department.

(i) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(j) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(k) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(m) Any similar facility determined by the director.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed unless a later enacted statute which is chaptered prior to January 1, 1983, deletes or extends that date.

SEC. 157.5. Section 1505 of the Health and Safety Code, as added by Section 2 of Chapter 1105 of the Statutes of 1977, is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any neighborhood family day care home which is accredited by a school district pursuant to Section 8245 of the Education Code.

(d) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(e) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any similar facility determined by the director.

This section shall become operative January 1, 1983, unless a later enacted statute which is chaptered prior to January 1, 1983, deletes or extends that date.

SEC. 158. Section 1550 of the Health and Safety Code is amended to read:

1550. The state department may suspend or revoke any license, registration, or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee, registrant, or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct in the operation or maintenance, or both the operation and maintenance, of a community care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

The director may temporarily suspend any license or special permit and shall immediately suspend any registration, prior to any hearing when, in his opinion, such action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee, registrant, or holder of the special permit of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, registrant, or holder of the special permit, the director shall within 15 days set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final

determination on the merits within 30 days after the original hearing has been completed.

SEC. 159. Section 1760 of the Health and Safety Code is amended to read:

1760. The State Department of Health Services shall maintain, in cooperation with local agencies, an emergency medical services program including, but not limited to, the following:

(a) Collection of data on the use of emergency medical services which will be of value in their development.

(b) Evaluation of emergency medical services.

(c) Establishment of recommended standards for emergency medical services.

(d) Provision of plans for optional programs whereby the largest possible number of people can be trained in cardiopulmonary resuscitation and lifesaving first aid techniques.

(e) Provision of plans whereby community medical emergency services can be augmented by assistance from nearby communities and from other resources throughout the state at large.

(f) Providing consultation services with the emergency medical care committee of each county established under Section 1751.

(g) Establishment of emergency medical training and educational standards for ambulance personnel.

SEC. 160. Section 1760.5 of the Health and Safety Code is amended to read:

1760.5. No owner of a publicly or privately owned ambulance shall permit the operation of such ambulance in emergency service unless the attendant on duty therein or, if there is no attendant on duty therein, the operator, possesses evidence of such specialized training as is reasonably necessary to insure that such attendant or operator is competent to care for sick or injured persons who may be transported by such ambulance, as set forth in the emergency medical training and educational standards for ambulance personnel established by the department pursuant to subdivision (g) of Section 1760. This section shall not be applicable in any state of emergency declared pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), when it is necessary to fully utilize all available ambulances in an area and it is not possible to have such ambulance operated or attended by persons with the qualifications required by this section.

SEC. 161. Section 5474.29 of the Health and Safety Code is amended to read:

5474.29. Except as provided in Section 18930, the State Department of Health Services, after consultation with the State Departments of Food and Agriculture and Industrial Relations, may make and promulgate reasonable regulations in accordance with this chapter pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and may adopt and submit building standards for approval pursuant to

Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code.

SEC. 162. Section 6644.1 of the Health and Safety Code is repealed.

SEC. 163. Section 11164 of the Health and Safety Code is amended to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II which is a narcotic drug shall be wholly written in ink or indelible pencil in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Such prescriptions shall be prepared in triplicate, signed and dated by the prescriber, and shall contain the name and address of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, directions for use, and the address, category of professional licensure, and the federal controlled substance registration number of the prescriber. The original and one copy of such a prescription shall be delivered to the pharmacist filling the prescription. The original shall be retained by the pharmacist and the copy, properly endorsed by him, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled. Upon receipt of an incompletely prepared official prescription form of the Department of Justice, the pharmacist may enter on the face of the prescription the address of the patient.

(b) Each prescription for a controlled substance classified in Schedule II which is not a narcotic drug or for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of controlled substance prescribed, and directions for use. With respect to prescriptions for controlled substances classified in Schedule II which are not narcotic drugs, and any controlled substance classified in Schedule III, the signature, date, and information required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of the prescriber.

(2) In addition, the prescription shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of the prescriber. The information required by this paragraph shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand. Notwithstanding any provision in this section, the prescriber's address, telephone number, category of professional licensure, or federal controlled substance registration number need

not appear on the prescription if such information is readily retrievable in the pharmacy.

(3) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify such address on the prescription, the pharmacist filling the prescription or an employee acting under his direction shall write or type the address on the prescription or maintain such information in a readily retrievable form in the pharmacy.

(c) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral prescription, which shall be reduced to writing by the pharmacist filling the prescription or by such other person as is expressly authorized by provisions of the Business and Professions Code. The date of issue of the prescription and all the information required for a written prescription by subdivision (b) shall be included in such written record of the prescription. The pharmacist need not reduce to writing the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient if such information is readily retrievable in the pharmacy. Pursuant to authorization of the prescriber, any employee of the prescriber on his behalf may orally transmit a prescription for a controlled substance classified in Schedule III, IV or V, if in such cases the written record of the prescription required by this subdivision specifies the name of the employee of the prescriber transmitting the prescription.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Notwithstanding any provision of subdivisions (b) and (c), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

SEC. 163.5. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency or local public agency pertaining to the arrest or conviction of any person for a violation of subdivision (b) or (c) of Section 11357 or subdivision (b) of Section 11360, shall not be kept beyond two years from the date of such a conviction, or from the date of the arrest if there was no conviction. It shall be the duty of each court and each such agency having custody of such records to provide for the timely destruction thereof in accordance with the provisions of subdivision (c). The requirements of this subdivision shall not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to such date.

(b) This subdivision shall be applicable only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor

thereof.

(2) Unlawful possession of a device, contrivance, instrument or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof,

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to such an arrest or conviction may apply to the Department of Justice for destruction of records pertaining thereto if two years or more have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount as will defray the cost of administering this subdivision and costs incurred by the state under subdivision (e), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form shall be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without such fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit such fingerprints as may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within such reasonable time as shall be established by the department or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at such other address as may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain such portion of the fee as the department may determine will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and

shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application. Each state or local agency receiving a notice from the Department of Justice shall destroy records of the agency, if any, pertaining to the arrest or conviction specified in the notice, in the manner prescribed by subdivision (c). The application form and the notices from the department to the agencies specified in this subdivision shall be destroyed by the department or agency, as the case may be, at the time the other records of the arrest or conviction are destroyed.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to such arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports shall not be subject to the provisions of this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) of this section shall be destroyed pursuant to subdivision (a) if more than two years has elapsed from the date of the conviction or arrest without conviction.

(e) Costs incurred by local agencies in complying with the provisions of subdivision (b) shall be reimbursed as provided in Section 2231 of the Revenue and Taxation Code.

SEC. 164. Section 11878 of the Health and Safety Code is amended to read:

11878. The state department shall not approve the establishment of a methadone program without a written application by the treatment facility which meets evaluative criteria required by the state department.

The state department shall not require disclosure of the identity of patients or former patients or of any records containing identifying information except as provided in Section 11879. Other information and records shall be subject to the confidentiality and disclosure provisions contained in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

SEC. 165. Section 12081 of the Health and Safety Code is amended to read:

12081. Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930 of this code, the State Fire Marshal shall prepare and adopt, in accordance with the provisions of Chapter 3.5 (commencing at Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations which are not in conflict with this part, relating to the sale, use, handling, possession, and storage of explosives.

The building standards adopted and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code and the other regulations adopted by the State Fire Marshal shall:

(a) Make reasonable allowances for storage facilities in existence when the regulations become effective. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(b) Be based on performance standards wherever possible.

(c) Make reasonable allowances for the storage of gunpowder for commercial and private use. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(d) Set uniform requirements for the use and handling of explosives that would apply statewide.

(e) The building standards published in the State Building Standards Code relating to storage of explosives and the other regulations adopted by the State Fire Marshal pursuant to this section shall apply uniformly throughout the State of California, and no city, county, city and county, or other political subdivision of this state, including, but not limited to, a chartered city, county, or city and county, shall adopt or enforce any ordinance or regulation which is inconsistent with the provisions of this section.

(f) In making the regulations the State Fire Marhsal shall consider as evidence of generally accepted safety standards the publications of the National Fire Protection Association, the United States Bureau of Mines, the United States Department of Defense, and the Institute of Makers of Explosives.

SEC. 166. Section 18832 of the Health and Safety Code is amended to read:

18832. Building standards shall be adopted and published pursuant to Part 2.5 (commencing with Section 18901) of this division, and the other regulations adopted by the commission pursuant to the provisions of this part shall be promulgated pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 167. Section 18897.2 of the Health and Safety Code is amended to read:

18897.2. (a) Except as provided in Section 18930, the State Director of Health Services shall adopt, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such rules and regulations establishing minimum standards for organized camps and regulating the operation of organized camps as the director determines are necessary to protect the health and safety of the campers. The State Director of Health Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The State Department of Health Services shall enforce building standards published in the State Building Standards Code relating to organized camps and such other rules and regulations adopted by such director pursuant to the provisions of this section as such director determines are necessary to protect the health and safety of campers. In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and in adopting such other rules and regulations pursuant to the provisions of this section, the State Director of Health Services shall consider the Resident Camp Standards of the American Camping Association.

(b) The Director of Health Services shall, on or before January 1, 1981, adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and shall, on or before January 1, 1981, adopt such other rules and regulations pursuant to the provisions of this section establishing minimum standards for intermittent short-term organized camps operated by a city or a county as the director deems necessary to protect the health and safety of campers. For the purposes of this subdivision, "intermittent short-term organized camps" means a site for camping by any group of people for a period of not more than 72 consecutive hours for such group.

SEC. 168. Section 18897.3 of the Health and Safety Code is amended to read:

18897.3. Except as provided in Section 18930, the State Fire Marshal shall adopt minimum fire safety regulations for organized camps in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

SEC. 169. Section 18956 of the Health and Safety Code is amended to read:

18956. The application of the provisions of Part 5.5 (commencing with Section 19955) of Division 13 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the

Government Code, Division 15 (commencing with Section 25000) of the Public Resources Code, and of any other statute or regulation, as they may apply to qualified historical buildings or structures, shall be governed by this part.

SEC. 170. Section 19984 of the Health and Safety Code is amended to read:

19984. All building standards shall be adopted and published in the State Building Standards Code pursuant to Part 2.5 (commencing with Section 18901) of this division, and all other rules and regulations promulgated by the commission under the authority of this part shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 171. Section 25117.6 of the Health and Safety Code is amended to read:

25117.6. Wastewater and wastewater sludges which have been properly treated to comply with the regulations of the State Department of Health Services and the regional water quality control boards shall not be considered infectious for the purposes of Section 25117.5.

SEC. 172. Section 25913 of the Health and Safety Code is amended to read:

25913. (a) (1) The Division of Occupational Safety and Health of the Department of Industrial Relations shall enforce this chapter with respect to the safety of employees as provided in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code.

(2) However, the Division of Occupational Safety and Health shall be responsible for the enforcement of subdivision (b) of Section 25910 only with respect to the manufacture of the substances described there, only when workers are handling such substances, and only if the division or any employee or agent of the division becomes aware of such manufacture. Furthermore, in such cases, the division shall enforce subdivision (b) of Section 25910 by issuing an order prohibiting use or entry, pursuant to the procedure described in Sections 6325 to 6327, inclusive, of the Labor Code, regardless of whether there exists employee exposure, a dangerous condition, improper guarding, dangerous placement, or an imminent hazard, and at any hearing concerning the validity of such an order, no proof need be tendered by the division concerning employee exposure, dangerous condition, improper guarding, dangerous placement, or imminent hazard.

(b) The State Department of Health Services shall have the responsibility for the administration and enforcement of this chapter with respect to its environmental and public health purposes and may commence and maintain all proper and necessary actions to enjoin activities constituting violations of this chapter or to compel the performance of any act specifically required of any person, officer, or board by this chapter with respect to the environmental and public health purposes of this chapter. The state department

shall enforce the provisions of Section 25910 in any circumstances or facilities except as provided in subdivision (a) of this section, and, in such event, may notify the Division of Occupational Safety and Health of any violations of such provisions within its jurisdiction.

SEC. 173. Section 33675 of the Health and Safety Code is amended to read:

33675. (a) The portion of taxes required to be allocated pursuant to subdivision (b) of Section 33670 shall be allocated and paid to the agency by the county auditor or officer responsible for the payment of taxes into the funds of the respective taxing agencies pursuant to the procedure contained in this section.

(b) Not later than the first day of October of each year, the agency shall file with the county auditor or officer described in subdivision (a) of this section, a statement of indebtedness certified to by the chief fiscal officer of the agency for each redevelopment project, the redevelopment plan for which provides for the division of taxes pursuant to Section 33670.

(c) The statement of indebtedness shall contain for each such redevelopment project:

(1) The date on which each loan, advance, or indebtedness was incurred or entered into.

(2) The principal amount term, purpose, and interest rate, of each loan, advance, or indebtedness.

(3) The outstanding balance and amount due or to be paid by the agency of each loan, advance, or indebtedness. The Controller shall prescribe a uniform form of statement of indebtedness.

(d) The county auditor or officer shall at the same time or times as the payment of taxes into the funds of the respective taxing agencies of the county, allocate and pay the portion of taxes provided by subdivision (b) of Section 33670 to each agency in an amount not to exceed the amount as shown on the agency's statement of indebtedness.

(e) The statement of indebtedness shall be prima facie evidence of the indebtedness of the agency. If the county auditor or other officer disputes the amount of indebtedness as shown in the statement of indebtedness, the county auditor or other officer shall, within 30 days after receipt of the statement, give written notice to the agency thereof. The agency shall, within 30 days after receipt of such notice, submit such further information as it deems appropriate to substantiate the amount of any indebtedness which has been disputed. If the county auditor or other officer still disputes the amount of indebtedness, final written notice thereof shall be given to the agency and the amount disputed may be withheld from allocation and payment to the agency as provided in subdivision (c) of this section. In such event, the auditor or other officer shall bring an action in the superior court in declaratory relief to determine the matter not later than 90 days after the date of the final notice. The issue in any such action shall involve only the amount of indebtedness, and not the validity of any contract or debt instrument

or any expenditures pursuant thereto. Payments to a trustee under a bond resolution or indenture of any kind or payments to a public agency in connection with payments by such public agency pursuant to a lease or bond issue shall not be disputed in any action under this section. Any such action shall be set for trial at the earliest possible date and shall take precedence over all other cases except older matters of the same character. Unless an action is brought within the time provided for herein, the auditor or other officer shall allocate and pay the amount shown on the statement of indebtedness as provided in subdivision (d).

(f) Nothing in this section shall be construed to permit a challenge to or attack on matters precluded from challenge or attack by reason of Sections 33500 and 33501. However, nothing in this section shall be construed to deny a remedy against the agency otherwise provided by law.

SEC. 174. Part 13 (commencing with Section 37910) of Division 24 of the Health and Safety Code, as added by Chapter 1199 of the Statutes of 1973, is repealed.

SEC. 175. Section 41515 of the Health and Safety Code, as added by Chapter 1130 of the Statutes of 1979, is amended and renumbered to read:

41514. (a) The board shall prepare and submit to the Legislature its recommendations with regard to the regulation of marine vessels on or before January 1, 1981. The report shall be prepared in consultation with the maritime industry, air pollution control districts, and members of the public.

(b) The board shall not adopt any regulation to implement the study recommendations or otherwise establish emission requirements for marine vessels prior to July 1, 1981.

(c) Nothing in this chapter shall be construed to prohibit enforcement of any rule or regulation governing marine vessels which had been adopted by any local air pollution control district prior to July 1, 1979, or is amended thereafter.

SEC. 176. Section 50093.5 of the Health and Safety Code, as added by Chapter 1207 of the Statutes of 1979, is amended and renumbered to read:

50093.6. "Property improvement loan" means an advance of money, evidenced by a note, to finance rehabilitation and general repairs and improvements to a residence consistent with the purposes of this division. A property improvement loan may, but need not be, secured by a deed of trust. However, a property improvement loan made outside a neighborhood preservation area shall be unsecured and shall not exceed fifteen thousand dollars ($15,000).

SEC. 177. Section 50667.5 of the Health and Safety Code, as added by Chapter 1042 of the Statutes of 1979, is repealed.

SEC. 178. Section 50669 of the Health and Safety Code, as added by Chapter 1042 of the Statutes of 1979, is repealed.

SEC. 179. Section 50670 of the Health and Safety Code, as added

by Chapter 1042 of the Statutes of 1979, is repealed.

SEC. 180. Section 50913 of the Health and Safety Code, as added by Chapter 373 of the Statutes of 1979, is repealed.

SEC. 181. Section 51350 of the Health and Safety Code, as added by Chapter 373 of the Statutes of 1979, is repealed.

SEC. 182. Section 51360.5 of the Health and Safety Code is amended to read:

51360.5. The committee shall review every statement submitted to it by a city or county pursuant to subdivision (i) of Section 52020. The committee shall determine the general adequacy of the program's security in protecting the state's credit. If the committee finds the state's credit would be subject to an undue risk, it may disapprove the proposed issuance or reduce the amount of the proposed issuance. If the committee has not acted within 30 days of the date on which a statement was submitted pursuant to subdivision (i) of Section 52020, the proposed issuance shall be deemed approved by the committee.

SEC. 183. Section 51654 of the Health and Safety Code, as added by Chapter 373 of the Statutes of 1979, is repealed.

SEC. 184. Section 43 of the Insurance Code is repealed.

SEC. 185. Article 2.5 (commencing with Section 1160.1) of Chapter 2 of Part 2 of Division 1 of the Insurance Code is repealed.

SEC. 186. Section 1530 of the Insurance Code is amended to read:

1530. In lieu of all other taxes, licenses or fees whatever, state or local, each exchange and its corporate attorney in fact considered as a single unit shall together pay annually on account of the transaction of such business in this state, the same fees as are paid by mutual insurers transacting the same kind of business, and the annual tax imposed by Section 28 of Article XIII of the Constitution of the State of California and by the applicable provisions of the Revenue and Taxation Code, except that each corporate attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon other corporations doing business in the state, other than taxes directly attributable to property used exclusively in or on income derived from its principal business as corporate attorney in fact. In any event, such corporate attorney in fact shall file an annual return and pay the minimum tax provided for by Section 23151 of the Bank and Corporation Tax Law. For the purposes of Section 12221 of the Revenue and Taxation Code, the term gross premiums, as applied to reciprocal or interinsurance exchanges, includes all sums paid by subscribers in this state by reason of the insurance exchange, whether termed premium deposit, membership fee, or otherwise, after deducting therefrom premium deposit returns or cancellations, and all amounts returned to subscribers or credited to their accounts as savings, but does not include such sums received for reinsurance and for ocean marine insurance.

A corporate attorney in fact of each exchange shall annually compute the amount of tax that would be payable by it under the provisions of the Bank and Corporation Tax Law (Part 11

(commencing with Section 23001) of Division 2 of the Revenue and Taxation Code) except for the provisions of this section, and any management fee due from each exchange to its corporate attorney in fact shall be reduced pro tanto by a sum equivalent to the amount so computed.

SEC. 187. Section 1707 of the Insurance Code is amended to read:

1707. Each notice of appointment or notice of termination of appointment filed pursuant to this article shall be filed in triplicate on forms prescribed by the commissioner. The commissioner shall, in the case of appointment notices, retain one copy thereof in his files and return two copies thereof to the insurer or insurer's representative, or employing insurance agent or broker, filing such notice. The insurer or insurer's representative or employing insurance agent or broker shall thereupon return one copy thereof to the license holder whose appointment is effected.

In the case of a termination notice, the commissioner shall retain one copy thereof for his files, forward one copy thereof to the license holder whose appointment is terminated, and return one copy thereof to the insurer or insurer's representative, or employing insurance agent or broker, filing such notice.

SEC. 188. Section 10123.1 of the Insurance Code, as added by Chapter 964 of the Statutes of 1974, is amended and renumbered to read:

10122.1. On and after the effective date of this section, every policy of disability insurance which covers hospital, medical, or surgical expenses on a group basis shall offer coverage to physically handicapped individual members of the group under the same terms and conditions as are normally offered to individual members of the group without physical handicap. The availability of such coverage shall be communicated to group policyholders and to prospective group policyholders during negotiations. Group policies shall not be required to cover hospital, medical, or surgical expenses arising as a direct result of an individual member's physical handicap.

SEC. 189. Section 10190 of the Insurance Code is amended to read:

10190. The provisions of Sections 800, 801, 802, 803, and 804 shall not apply to life insurance.

SEC. 190. Section 10203.1 of the Insurance Code is amended to read:

10203.1. Life insurance conforming to all the following conditions is another form of group life insurance:

(a) Written under a policy covering, when issued, not less than 25 employees of the Trustees of the California State University and Colleges in eligible classes as designated by the trustees pursuant to Section 89506 of the Education Code.

(b) Written under a policy issued to the Trustees of the California State University and Colleges pursuant to Section 89506 of the Education Code.

(c) The premium on the policy is to be paid by such employees

alone, or in part by the State of California with the remainder to be paid by such employees. Payment of such premium by a third party on behalf of such employees shall be considered payment by such employees.

(d) Insuring only such employees of the Trustees of the California State University and Colleges.

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

(f) Insuring for the benefit of persons other than the Trustees of the California State University and Colleges.

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

SEC. 191. Article 3 (commencing with Section 10309) of Chapter 4 of Part 2 of Division 2 of the Insurance Code is repealed.

SEC. 192. The heading of Article 3a (commencing with Section 10320) of Chapter 4 of Part 2 of Division 2 of the Insurance Code is amended and renumbered to read:

Article 3. Policy Form Generally—Uniform Provisions

SEC. 193. Article 4 (commencing with Section 10329) of Chapter 4 of Part 2 of Division 2 of the Insurance Code is repealed.

SEC. 194. The heading of Article 4a (commencing with Section 10350) of Chapter 4 of Part 2 of Division 2 of the Insurance Code is amended and renumbered to read:

Article 4. Compulsory Standard Provisions—Uniform Provisions

SEC. 195. Article 5 (commencing with Section 10359) of Chapter 4 of Part 2 of Division 2 of the Insurance Code is repealed.

SEC. 196. The heading of Article 5a (commencing with Section 10369.1) of Chapter 4 of Part 2 of Division 2 of the Insurance Code is amended and renumbered to read:

Article 5. Optional Standard Provisions and Special Provisions—Uniform Provisions

SEC. 197. Article 5.5 (commencing with Section 10369.50) of Chapter 4 of Part 2 of Division 2 of the Insurance Code is repealed.

SEC. 198. Section 10395 of the Insurance Code is amended to read:

10395. The provisions of Sections 800, 801, 802, 803, and 804 shall not apply to disability insurance.

SEC. 199. Section 10457 of the Insurance Code is amended to read:

10457. Upon receipt of such securities, the commissioner shall immediately deposit them in the State Treasury in accordance with the provisions of Sections 940 to 946, inclusive, where they shall remain as a special security for the benefit of such registered policies.

SEC. 200. Section 11512.16 of the Insurance Code, as added by Chapter 629 of the Statutes of 1979, is amended and renumbered to read:

11512.18. On and after January 1, 1980, every nonprofit hospital service plan that covers hospital, medical, or surgical expenses on a group basis, and which offers maternity coverage in such groups, shall also offer coverage for prenatal diagnosis of genetic disorders of the fetus by means of diagnostic procedures in cases of high-risk pregnancy. Every nonprofit hospital service plan shall communicate the availability of coverage to all group contract holders and to all groups with whom they are negotiating.

SEC. 201. Section 11512.9 of the Insurance Code, as added by Chapter 732 of the Statutes of 1977, is amended and renumbered to read:

11512.95. (a) No nonprofit hospital service plan shall refuse to enroll any person or accept any person as a subscriber after appropriate application solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A. No plan shall require a higher rate or charge by reason of the fact that the person carries such traits than is at that time required of any other individual in an otherwise identical classification, nor shall any plan make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered under the plan because the person carries such traits.

(b) No discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment of subscription of any person solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell

trait, thalassemia trait, and X-linked hemophilia A.

SEC. 202. Section 11520 of the Insurance Code is amended to read:

11520. The following organizations and persons may receive transfers of property, conditioned upon their agreement to pay an annuity to the transferor or his nominee, after obtaining from the commissioner a certificate of authority so to do:

(a) Any charitable, religious, benevolent or educational organization, pecuniary profit not being its object or purpose, after being in active operation for at least 10 years; provided, nevertheless, that 10 years of active operation shall not be required in case of:

(1) A nonprofit corporation organized and controlled by a hospital licensed by the State Department of Health Services as a general acute care hospital pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code; and

(2) An incorporated educational institution offering courses of instruction beyond high school, organized pursuant to Section 94306 of the Education Code, and which is, and for at least one year has been, qualified pursuant to Chapter 3 (commencing with Section 94300) of Part 59 of the Education Code to issue diplomas or degrees as defined in Section 94302 of that code;

(b) Every organization or person maintaining homes for the aged for pecuniary profit.

The provisions of this section shall not apply to organizations subject to and operating under Chapter 10 (commencing with Section 1770) of Division 2 of the Health and Safety Code.

SEC. 203. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, his heirs or his legal representative for all sums within such limits which he or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle completely, or with respect to a natural person or persons designated by name when operating a motor vehicle. Either of such deletions by any named

insured shall be binding upon every insured to whom such policy or endorsement provisions apply while such policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement of such policy by the named insured, or with respect to reinstatement of such policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or with respect to one or more natural persons designated by name when operating a motor vehicle. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the financial responsibility limits which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

Such agreement may contain additional statements not in derogation of or conflict with the foregoing. The execution of such agreement shall relieve the insurer of liability under this section while such agreement remains in effect.

(b) As used in subdivision (a), "bodily injury" includes sickness or disease, including death, resulting therefrom; "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in subdivision (a); as used in subdivision (a), "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household while being operated by the named insured or his spouse if a resident of the same household, but "insured motor vehicle" shall

not include any automobile while used as a public or livery conveyance. As used in this section, "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has or the insured's heirs have a cause of action arising out of such accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, "uninsured motor vehicle" shall not include an automobile owned by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of such accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of such person against

the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from an automobile other than the described automobile if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to him under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bears to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him, the damages which he shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under such automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his insurer, his legal representative, or his heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based.

If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, such claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) such claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to such determinations, and all rights, remedies, obligations, liabilities and procedures set forth in such Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in such Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of such Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under such Article 3 with respect to the same accident, subject, however, to the right of such court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in

paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person causing such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him, his executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident one of the following occurs:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction.

(2) Agreement as to the amount due under the policy has been concluded.

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction

in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to such injury or death. Failure of the insurer to provide such written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date such written notice is actually given.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing transportation to senior citizens or physically or mentally handicapped persons. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed fifteen cents ($0.15) per mile actually driven. As used in this section, "senior citizen" means a person 60 years of age or older. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

SEC. 204. Section 11743 of the Insurance Code, as added by Chapter 17 of the Statutes of 1977, is amended and renumbered to read:

11744. The provisions of this article shall not apply to any rate, classification, or system of rating for the workers' compensation insurance covering those persons defined as employees by subdivision (d) of Section 3351 of the Labor Code, nor to the extent of such coverage, to any insurer providing such coverage.

SEC. 205. The heading of Article 1 (commencing with Section 12660) of Chapter 3 of Part 6 of Division 2 of the Insurance Code is repealed.

SEC. 206. The heading of Article 2 of Chapter 3 of Part 6 of Division 2 of the Insurance Code is repealed.

SEC. 207. The heading of Article 3 of Chapter 3 of Part 6 of Division 2 of the Insurance Code is repealed.

SEC. 208. The heading of Article 4 of Chapter 3 of Part 6 of Division 2 of the Insurance Code is repealed.

SEC. 209. The heading of Article 5 of Chapter 3 of Part 6 of Division 2 of the Insurance Code is repealed.

SEC. 210. The heading of Article 6 of Chapter 3 of Part 6 of Division 2 of the Insurance Code is repealed.

SEC. 211. The heading of Chapter 7.5 (commencing with Section 175) of Division 1 of the Labor Code is amended to read:

CHAPTER 7.5. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

SEC. 212. Section 175 of the Labor Code is amended to read:

175. The Division of Occupational Safety and Health shall be the lead agency in providing for public health and safety as well as worker health and safety in the construction, maintenance, and operation of any liquefied petroleum gas storage facility, other than a facility owned or maintained by a public utility, having a capacity of 100,000 barrels or more, including storage vessels, and related piping, pumping, distribution, and transfer apparatus. As the lead agency, the division shall request any state or local agency having statutory public health and safety jurisdiction over any part of the construction, maintenance, or operation of any such liquefied petroleum gas storage facility, other than a facility owned or maintained by a public utility, to exercise its statutory jurisdiction in relation to such facility, and shall report to the Legislature any instance in which such jurisdiction was not exercised.

SEC. 213. Section 231 of the Labor Code, as added by Chapter 615 of the Statutes of 1971, is repealed.

SEC. 214. Section 431 of the Labor Code is amended to read:

431. If an employee or applicant is required to sign an application for employment, the employer shall file in the office of the Division of Labor Standards Enforcement a copy of the form of such application.

SEC. 215. Section 554 of the Labor Code is amended to read:

554. This chapter shall not apply to any cases of emergency nor to work performed in the necessary care of animals, crops or agricultural lands, nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of any train. Nor shall the provisions of this chapter apply when the employer and a labor organization representing employees of such employer have entered into a valid collective-bargaining agreement respecting the hours of work of such employees. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, providing that in each calendar month the employee receive days of rest equivalent to one day's rest in seven. The requirement respecting the equivalent of one day's rest in seven shall apply, notwithstanding the other provisions of this section relating to collective-bargaining agreements, where the employer and a labor organization representing employees of the employer have entered into a valid collective-bargaining agreement respecting the hours of work of the employees, unless the agreement expressly provides otherwise.

In addition to the exceptions herein, the Chief of the Division of Labor Standards Enforcement may, when in his judgment hardship will result, exempt any employer or employees from this chapter.

Nothing contained herein shall affect contracts existing on the effective date of this amendment.

SEC. 216. Section 1173 of the Labor Code is amended to read:

1173. It shall be the continuing duty of the Industrial Welfare Commission, hereinafter referred to in this chapter as the commission, to ascertain the wages paid to all employees in this state, and to ascertain the hours and conditions of labor and employment in the various occupations, trades, and industries in which employees are employed in this state, and to investigate the comfort, health, safety, and welfare of such employees. No rules, regulations, or policies of the Industrial Welfare Commission existing on the effective date of the amendments to this section enacted at the 1973–74 Regular Session shall be extended or changed without review and hearings, upon proper notice, on the proposed changes. The commission shall forthwith undertake a full review, with hearings upon proper notice, of all such existing rules, regulations, and policies made under its jurisdiction. Such review shall be directed toward the end of accomplishing the objectives of this chapter, and updating such rules, regulations, and policies to the extent found by the commission to be necessary to provide adequate and reasonable wages, hours, and working conditions appropriate for all employees in the modern society. The commission shall amend, repeal, or otherwise modify its rules, regulations, and policies in such manner as the commission, on the basis of such review, deems necessary to comply with the objectives of this chapter. The commission shall conduct such a full review at least once every two calendar years, or at such more frequent times as the commission, based upon then current conditions, deems appropriate.

Before adopting any new rules, regulations, or policies, the commission shall consult with the Occupational Safety and Health Standards Board to determine those areas and subject matters where the respective jurisdiction of the commission and the Occupational Safety and Health Standards Board overlap. In the case of such overlapping jurisdiction, the Occupational Safety Board shall have exclusive jurisdiction, and rules, regulations, or policies of the commission on the same subject have no force or effect.

SEC. 217. Section 1185 of the Labor Code is amended to read:

1185. The orders of the commission fixing minimum wages, maximum hours, and standard conditions of labor for all employees, when promulgated in accordance with the provisions of this chapter, shall be valid and operative and such orders are hereby expressly exempted from the provisions of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 218. Section 1290 of the Labor Code is amended to read:

1290. No minor under the age of 16 years shall be employed, permitted, or suffered to work in or in connection with any manufacturing establishment or other place of labor or employment at any time except as may be provided in this article or by the

provisions of Part 27 (commencing with Section 48000) of the Education Code.

SEC. 219. Section 1296 of the Labor Code is amended to read:

1296. The Division of Labor Standards Enforcement may, after a hearing, determine whether any particular trade, process of manufacture, or occupation, in which the employment of minors under the age of 16 years is not already forbidden by law, or whether any particular method of carrying on such trade, process of manufacture, or occupation is sufficiently dangerous to the lives or limbs or injurious to the health or morals of minors under 16 years of age to justify their exclusion therefrom. No minor under 16 years of age shall be employed or permitted to work in any occupation thus determined to be dangerous or injurious to minors. Any determination hereunder may be reviewed by the superior court.

SEC. 220. Section 1299 of the Labor Code is amended to read:

1299. Every person, or agent or officer thereof, employing either directly or indirectly through third persons minors, shall keep on file all permits and certificates, either to work or to employ, issued under the provisions of this article or of Part 27 (commencing with Section 48000) of the Education Code. Such files shall be open at all times to the inspection of the school attendance and probation officers, the State Board of Education, and the officers of the Division of Labor Standards Enforcement.

SEC. 221. Section 1311 of the Labor Code is amended to read:

1311. The Division of Labor Standards Enforcement shall enforce this article.

SEC. 222. Section 1353 of the Labor Code is amended to read:

1353. Every employer subject to this article shall keep an accurate record showing the names of, and actual hours worked by all female employees. This record shall be accessible at all reasonable hours to the officers and agents of the Division of Labor Standards Enforcement.

SEC. 223. Section 1356 of the Labor Code is amended to read:

1356. The Division of Labor Standards Enforcement shall enforce this article; provided, however, that neither the division nor the Industrial Welfare Commission may place on employers any limitations that are more restrictive than the provisions of this article.

SEC. 224. Section 1398 of the Labor Code is amended to read:

1398. The Division of Labor Standards Enforcement shall enforce the provisions of this article.

SEC. 225. Section 2650 of the Labor Code is amended to read:

2650. As used in this part:

(a) "To manufacture" means to make, process, prepare, alter, repair, or finish in whole or in part, or to assemble, inspect, wrap, or package any articles or materials.

(b) "Employer" means any person who, directly or indirectly or through an employee, agent, independent contractor, or any other person, employs an industrial homeworker.

(c) "Home" means any room, house, apartment, or other

premises, whichever is most extensive, used in whole or in part as a place of dwelling; and includes outbuildings upon premises that are primarily used as a place of dwelling, where such outbuildings are under the control of the person dwelling on such premises.

(d) "Industrial homework" means any manufacture in a home of materials or articles for an employer when such articles or materials are not for the personal use of the employer or a member of his family.

(e) "Division" means the Division of Labor Standards Enforcement.

(f) "Industrial homeworker" means any person who does industrial homework.

(g) "To employ" means to engage, suffer or permit any person to do industrial homework, or to tolerate, suffer, or permit articles or materials under one's custody or control to be manufactured in a home by industrial homework

(h) "Person" means any individual, partnership and each partner thereof, corporation, or association.

SEC. 226. Section 2658.1 of the Labor Code is amended to read:

2658.1. Every person who, without having in his possession a then valid industrial homework license issued to him by the Division of Labor Standards Enforcement, negligently fails to prevent articles or materials under his custody or control from being taken to a home for manufacture by industrial homework is guilty of a misdemeanor. Possession, control or custody of articles or materials for the purpose of manufacture by industrial homework by a person other than the owner or operator of a factory shall be presumptive evidence that said owner or operator has negligently failed to prevent articles or materials under his custody or control from being taken to a home for manufacture by industrial homework, where it is established that such owner or operator is entitled to possession, control or custody of such articles.

SEC. 227. Section 2658.5 of the Labor Code is amended to read:

2658.5. Every person, which term shall be deemed to include manufacturers, contractors, jobbers and wholesalers, who, without having in his possession a then-valid industrial homework license issued to him by the Division of Labor Standards Enforcement, employs an industrial homeworker, or who tolerates, suffers, or permits articles or materials owned by him, or under his custody or control to be taken to a home for manufacture by industrial homework or who accepts and pays a person for the manufacture in a home of articles and materials by industrial homework, or who places an advertisement for industrial homework the performance of which is not permitted under this part is guilty of a misdemeanor which misdemeanor shall be punished for the first offense by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment, and for a second conviction by a fine of not more than five thousand dollars ($5,000) or imprisonment in the county jail for

not more than six months, or by both such fine and imprisonment. A person, which term shall be deemed to include manufacturers, contractors, jobbers and wholesalers, convicted for a third time, and any subsequent times, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than thirty thousand dollars ($30,000) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. Upon a third conviction, in addition to any penalties or fines imposed, the business license of the manufacturer or owner of the goods, garments or products produced by industrial homework which is not permitted by this part shall be suspended for a period not to exceed three years. The court may suspend all or a part of any penalty imposed by this section on condition that the defendant refrains from any future or other violation of this part.

SEC. 228. Section 2666 of the Labor Code is amended to read:

2666. The Division of Labor Standards Enforcement shall enforce the provisions of this part. The division and the authorized representatives of the Department of Industrial Relations are authorized and directed to make all inspections and investigations necessary for the enforcement of this part. Every employer shall permit authorized employees of the division free access to his place of business for the purpose of making investigations authorized by this part or necessary to carry out its provisions and permit them to inspect and copy his payroll or other records or documents relating to the enforcement of this part, or interview his employees or agents. The division may make, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such rules and regulations as are reasonably necessary to carry out the provisions of this part. The violation of any such rule or regulation shall be deemed a violation of this part.

Every law enforcement officer of the state, any county, municipality, or other government entity who has reason to suspect any violation of this part shall have all the powers of an authorized representative of the Department of Industrial Relations, in the investigation of such suspected violation.

SEC. 229. Section 3212 of the Labor Code is amended to read:

3212. In the case of members of a sheriff's office, district attorney's staff of inspectors and investigators or of police or fire departments of cities, counties, cities and counties, districts or other public or municipal corporations or political subdivisions, whether such members are volunteer, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry whose duties require firefighting or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid, and in the case of members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, excepting those whose principal duties are clerical or otherwise do

not clearly fall within the scope of active law enforcement service such as stenographer, telephone operators, and other officeworkers, the term "injury" as used in this act includes hernia when any part of the hernia develops or manifests itself during a period while such member is in the service in such office, staff, division, department or unit, and in the case of members of such fire departments, except those whose principal duties are clerical, such as stenographers, telephone operators and other officeworkers, and in the case of county forestry or firefighting departments, except those whose principal duties are clerical, such as stenographers, telephone operators and other officeworkers, and in the case of active firefighting members of the Department of Forestry whose duties require firefighting, and in the case of members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, excepting those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service such as stenographer, telephone operators, and other officeworkers, the term "injury" includes pneumonia and heart trouble which develops or manifests itself during a period while such member is in the service of such office, staff, department or unit. In the case of regular salaried county or city and county peace officers, the term "injury" also includes any hernia which manifests itself or develops during a period while the officer is in the service. The compensation which is awarded for such hernia, heart trouble or pneumonia, shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by the workers' compensation laws of this state.

Such hernia, heart trouble or pneumonia so developing or manifesting itself in such cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. Such presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

Such hernia, heart trouble or pneumonia so developing or manifesting itself in such cases shall in no case be attributed to any disease existing prior to such development or manifestation.

SEC. 230. Section 3600.3 of the Labor Code is amended to read:

3600.3. (a) For the purposes of Section 3600, an off-duty peace officer who is performing, within the jurisdiction of his employing agency, a service he would, in the course of his employment, have been required to perform if he were on duty, is performing a service growing out of and incidental to his employment and is acting within the course of his employment if, as a condition of his employment, he is required to be on call within such jurisdiction during his off-duty

hours.

(b) As used in this section, "peace officer" means active law enforcement officers and fire suppression personnel who are full-time employees of a city, county, police or fire protection district, or of any other district furnishing police protection or fire suppression services.

(c) As used in subdivisions (a) and (d), "peace officer" shall also mean those employees of the Department of Forestry named as peace officers for purposes of subdivision (f) of Section 830.3 of the Penal Code.

(d) This section shall not apply to any off-duty peace officer while he is engaged, either as an employee or as an independent contractor, in any capacity other than as a peace officer.

(e) This section shall not preclude a peace officer, as defined in subdivision (b), from any recovery of benefits under this division to which he might be entitled pursuant to Section 50921 of the Government Code.

SEC. 231. Section 4551 of the Labor Code is amended to read:

4551. Where the injury is caused by the serious and willful misconduct of the injured employee, the compensation otherwise recoverable therefor shall be reduced one-half, except:

(a) Where the injury results in death.

(b) Where the injury results in a permanent disability of 70 percent or over.

(c) Where the injury is caused by the failure of the employer to comply with any provision of law, or any safety order of the Division of Occupational Safety and Health, with reference to the safety of places of employment.

(d) Where the injured employee is under 16 years of age at the time of injury.

SEC. 232. Section 5500.5 of the Labor Code is amended to read:

5500.5. (a) Except as otherwise provided in Section 5500.6, liability for occupational disease or cumulative injury claims filed or asserted on or after January 1, 1978, shall be limited to those employers who employed the employee during a period of four years immediately preceding either the date of injury, as determined pursuant to Section 5412, or the last date on which the employee was employed in an occupation exposing him to the hazards of such occupational disease or cumulative injury, whichever occurs first. Commencing January 1, 1979, and thereafter on the first day of January for each of the next two years, the liability period for occupational disease or cumulative injury shall be decreased by one year so that liability is limited in the following manner:

For claims filed or asserted on or after:	The period shall be:
January 1, 1979	three years
January 1, 1980	two years
January 1, 1981 and thereafter	one year

In the event that none of the employers during the above referenced periods of occupational disease or cumulative injury are insured for workers' compensation coverage or an approved alternative thereof, liability shall be imposed upon the last year of employment exposing the employee to the hazards of such occupational disease or cumulative injury for which an employer is insured for workers' compensation coverage or an approved alternative thereof.

Any employer held liable for workers' compensation benefits as a result of another employer's failure to secure the payment of compensation as required by this division shall be entitled to reimbursement from the employers who were unlawfully uninsured during the last year of the employee's employment, and shall be subrogated to the rights granted to the employee against the unlawfully uninsured employers under the provisions of Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4.

If, based upon all the evidence presented, the appeals board or referee finds the existence of cumulative injury or occupational disease, liability for such cumulative injury or occupational disease shall not be apportioned to prior or subsequent years; however, in determining such liability, evidence of disability due to specific injury, disability due to nonindustrial causes, or disability previously compensated for by way of a findings and award or order approving compromise and release, or a voluntary payment of disability, may be admissible for purposes of apportionment.

(b) Where a claim for compensation benefits is made on account of an occupational disease or cumulative injury which may have arisen out of more than one employment, the application shall state the names and addresses of all employers liable under subdivision (a), the places of employment, and the approximate periods of employment where the employee was exposed to the hazards of the occupational disease or cumulative injury. If the application is not so prepared or omits necessary and proper employers, any interested party, at or prior to the first hearing, may request the appeals board to join as defendant any necessary or proper party. If such request is made prior to the first hearing on the application, the appeals board shall forthwith join the employer as a party defendant and cause a copy of the application together with a notice of the time and place of hearing to be served upon such omitted employer; provided, such notice can be given within the time specified in this division. If such notice cannot be timely given or if the motion for joinder is made at the time of the first hearing, then the appeals board or referee before whom the hearing is held, if it is found that the omitted employer named is a necessary or proper party, may order a joinder of such party and continue the hearing so that proper notice may be given to the party or parties so joined. Only one continuance shall be allowed for the purpose of joining additional parties. Subsequent to the first hearing the appeals board shall join as a party

defendant any additional employer when it appears that such employer is a proper party, but the liability of such employer shall not be determined until supplemental proceedings are instituted.

(c) In any case involving a claim of occupational disease or cumulative injury occurring as a result of more than one employment within the appropriate time period set forth in subdivision (a), the employee making the claim, or his dependents, may elect to proceed against any one or more of such employers. Where such an election is made, the employee must successfully prove his claim against any one of the employers named, and any award which the appeals board shall issue awarding compensation benefits shall be a joint and several award as against any two or more employers who may be held liable for compensation benefits. If, during the pendency of any claim wherein the employee or his dependents has made an election to proceed against one or more employers, it should appear that there is another proper party not yet joined, such additional party shall be joined as a defendant by the appeals board on the motion of any party in interest, but the liability of such employer shall not be determined until supplemental proceedings are instituted. Any employer joined as a defendant subsequent to the first hearing or subsequent to the election provided herein shall not be entitled to participate in any of the proceedings prior to the appeal board's final decision, nor to any continuance or further proceedings, but may be permitted to ascertain from the employee or his dependents such information as will enable the employer to determine the time, place, and duration of the alleged employment. On supplemental proceedings, however, the right of the employer to full and complete examination or cross-examination shall not be restricted.

(d) (1) In the event a self-insured employer which owns and operates a work location in the State of California, sells or has sold the ownership and operation of such work location pursuant to a sale of a business or all or part of the assets of a business to another self-insured person or entity after January 1, 1974, but before January 1, 1978, and all the requirements of subparagraphs (A) to (D), inclusive, exist, then the liability of the employer-seller and employer-buyer, respectively, for cumulative injuries suffered by employees employed at such work location immediately before such sale shall, until January 1, 1986, be governed by the provisions of this section which were in effect on the date of such sale.

(A) The sale constitutes a material change in ownership of such work location.

(B) The person or entity making the purchase continues the operation of the work location.

(C) Such person or entity becomes the employer of substantially all of the employees of the employer-seller.

(D) The agreement of sale makes no special provision for the allocation of liabilities for workers' compensation between the buyer and the seller.

(2) For purposes of this subdivision:

(A) "Work location" shall mean any fixed place of business, office, or plant where employees regularly work in the trade or business of the employer.

(B) A "material change in ownership" shall mean a change in ownership whereby the employer-seller does not retain, directly or indirectly, through one or more corporate entities, associations, trusts, partnerships, joint ventures, or family members, a controlling interest in the work location.

(3) This subdivision shall have no force or effect on or after January 1, 1986, unless otherwise extended by the Legislature prior to that date, and it shall not have any force or effect as respects an employee who, subsequent to such sale described in paragraph (1) and prior to the date of his or her application for compensation benefits has been filed, is transferred to a different work location by the employer-buyer.

(4) If any provision of this subdivision or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this subdivision which can be given effect without the invalid provision or application, and to this end the provisions of this subdivision are severable.

(e) At any time within one year after the appeals board has made an award for compensation benefits in connection with an occupational disease or cumulative injury, any employer held liable under such award may institute proceedings before the appeals board for the purpose of determining an apportionment of liability or right of contribution. Such a proceeding shall not diminish, restrict, or alter in any way the recovery previously allowed the employee or his dependents, but shall be limited to a determination of the respective contribution rights, interest or liabilities of all the employers joined in the proceeding, either initially or supplementally; provided, however, if the appeals board finds on supplemental proceedings for the purpose of determining an apportionment of liability or of a right of contribution that an employer previously held liable in fact has no liability, it may dismiss such employer and amend its original award in such manner as may be required.

(f) If any proceeding before the appeals board for the purpose of determining an apportionment of liability or of a right of contribution where any employee incurred a disability or death resulting from silicosis in underground metal mining operations, the determination of the respective rights and interests of all of the employers joined in the proceedings either initially or supplementally shall be as follows:

(1) All employers whose underground metal mining operations resulted in a silicotic exposure during the period of the employee's employment in such operations shall be jointly and severally liable for the payment of compensation and of medical, surgical, legal and hospital expense which may be awarded to the employee or his

estate or dependents as the result of disability or death resulting from or aggravated by such exposure.

(2) In making its determination in the supplemental proceeding for the purpose of determining an apportionment of liability or of a right of contribution of percentage liabilities of the various employers engaged in underground metal mining operations the appeals board shall consider as a rebuttal presumption that employment in underground work in any mine for a continuous period of more than three calendar months will result in a silicotic exposure for the employee so employed during the period of employment if the underground metal mine was driven or sunk in rock having a composition which will result in dissemination of silica or silicotic dust particles when drilled, blasted or transported.

(g) Any employer shall be entitled to rebut such presumption by showing to the satisfaction of the appeals board, or its referee, that the mining methods used by the employer in the employee's place of employment did not result during his employment in the creation of silica dust in sufficient amount or concentration to constitute a silicotic hazard. Dust counts, competently made, at such intervals and in such locations as meet the requirements of the Division of Occupational Safety and Health for safe working conditions may be received as evidence of the amount and concentration of silica dust in the workings where such counts have been made at the time when they were made. The appeals board may from time to time, as its experience may indicate proper, promulgate orders as to the frequency with which such dust counts shall be taken in different types of workings in order to justify their acceptance as evidence of the existence or nonexistence of a silicotic hazard in the property where they have been taken.

(h) The amendments to this section adopted at the 1959 Regular Session of the Legislature shall operate retroactively, and shall apply retrospectively to any cases pending before the appeals board or courts. From and after the date this section becomes effective no payment shall be made out of the fund used for payment of the additional compensation provided for in Section 4751, or out of any other state funds, in satisfaction of any liability heretofore incurred or hereafter incurred, except awards which have become final without regard to the continuing jurisdiction of the appeals board on said effective date, and the state and its funds shall be without liability therefor. This subdivision shall not in any way effect a reduction in any benefit conferred or which may be conferred upon any injured employee or his dependents.

(i) The amendments to this section adopted at the 1977 Regular Session of the Legislature shall apply to any claims for benefits under this division which are filed or asserted on or after January 1, 1978, unless otherwise specified in this section.

SEC. 233. Section 6304.3 of the Labor Code is amended to read:

6304.3. (a) A Correctional Industry Safety Committee shall be established in accordance with Department of Corrections

administrative procedures at each facility maintaining a correctional industry, as defined by the Department of Corrections. The Division of Occupational Safety and Health shall promulgate, and the Department of Corrections shall implement, regulations concerning the duties and functions which shall govern the operation of each such committee.

(b) All complaints alleging unsafe or unhealthy working conditions in a correctional industry shall initially be directed to the Correctional Industry Safety Committee of the facility prison. The committee shall attempt to resolve all complaints.

If a complaint is not resolved by the committee within 15 calendar days, the complaint shall be referred by the committee to the division where it shall be reviewed. When the division receives a complaint which, in its determination, constitutes a bona fide allegation of a safety or health violation, the division shall summarily investigate the same as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, as defined in Section 6309, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation.

(c) Except as provided in subdivision (b) and in Section 6313, the inspection or investigation of a facility maintaining a correctional industry, as defined by the Department of Corrections, shall be discretionary with the division.

(d) Notwithstanding Section 6321, the division may give advance notice of an inspection or investigation and may postpone the same if such action is necessary for the maintenance of security at the facility where the inspection or investigation is to be held, or for insuring the safety and health of the division's representative who will be conducting such inspection or investigation.

SEC. 234. Section 6305 of the Labor Code is amended to read:

6305. (a) "Occupational safety and health standards and orders" means standards and orders adopted by the standards board pursuant to Chapter 6 (commencing with Section 140) of Division 1 and general orders heretofore adopted by the Occupational Safety and Health Standards Board or the Industrial Accident Commission.

(b) "Special order" means any order written by the chief or his authorized representative to correct an unsafe condition, device, or place of employment which poses a threat to the health or safety of an employee and which cannot be made safe under existing standards or orders of the standards board. These orders shall have the same effect as any other standard or order of the standards board, but shall apply only to the employment or place of employment described in the written order of the chief's authorized representative.

SEC. 235. Section 6307.1 of the Labor Code is amended to read:

6307.1. The State Department of Health Services shall assist the division in the enforcement of Section 25910 of the Health and Safety Code in the manner prescribed by a written agreement between the State Department of Health Services and the Department of

Industrial Relations, pursuant to Section 144.

SEC. 236. Section 6312 of the Labor Code is amended to read:

6312. Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of Section 6310 or 6311 may, within 30 days after the occurrence of the violation, file a complaint with the Labor Commissioner alleging the discrimination. Upon receipt of the complaint, the Division of Labor Standards Enforcement shall cause such investigation to be made as it deems appropriate. If upon investigation it determines that the provisions of Section 6310 or 6311 have been violated, it shall bring an action in any appropriate court against the person who committed the violation. In any such action the courts shall have jurisdiction, for cause shown, to restrain violations of Section 6310 or 6311 and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

Within 30 days of the receipt of a complaint pursuant to this section, the Division of Labor Standards Enforcement shall review the facts of the employee's complaint, set a hearing date or notify the employee and the employer of its decision, and, where necessary, begin the appropriate court action to enforce such decision

SEC. 237. Section 6413.2 of the Labor Code is amended to read:

6413.2. (a) The Division of Labor Statistics and Research shall, within five working days of their receipt, transmit to the Division of Occupational Safety and Health copies of all reports received by the Division of Labor Statistics and Research pursuant to Section 6413.

(b) With regard to any report required by Section 6413, the Division of Occupational Safety and Health may make recommendations to the Department of Corrections of ways in which the department might improve the safety of the working conditions and work areas of state prisoners, and other safety matters. The Department of Corrections shall not be required to comply with these recommendations.

(c) With regard to any report required by Section 6413, the Division of Occupational Safety and Health may, in any case in which the Department of Corrections has not complied with recommendations made by the division pursuant to subdivision (b), or in any other case in which the division deems the safety of any state prisoner shall require it, conduct hearings and, after these hearings, adopt special orders, rules, or regulations or otherwise proceed as authorized in Chapter 1 (commencing with Section 6300) of this part as it deems necessary. The Department of Corrections shall comply with any order, rule, or regulation so adopted by the Division of Occupational Safety and Health.

SEC. 238. Section 6702 of the Labor Code is amended to read:

6702. All portable and all mobile internal combustion engines that are used inside factories, manufacturing plants, warehouses, buildings and other enclosed structures shall be equipped with a certified exhaust purifier device after the certification of the device by the State Air Resources Board.

The Division of Occupational Safety and Health shall be responsible for the enforcement of the provisions of this section.

SEC. 239. Section 7108 of the Labor Code is amended to read:

7108. Safety belts and nets shall be required in accordance with Article 24 (commencing with Section 1669) of subchapter 4 of Chapter 4 of Part 1 of Title 8 of the California Administrative Code, Construction Safety Orders of the Division of Occupational Safety and Health.

SEC. 240. Section 7110 of the Labor Code is amended to read:

7110. The Division of Occupational Safety and Health shall enforce this article.

SEC. 241. Section 7151 of the Labor Code is amended to read:

7151. If the working platform of any scaffolding swung or suspended from an overhead support is more than 10 feet above the ground, floor or area to which an employee on the scaffolding might fall, it shall have a safety rail of wood or other equally rigid material of adequate strength. The rail shall comply with the applicable orders of the Division of Occupational Safety and Health.

Suspended scaffolding shall be fastened so as to prevent the scaffolding from swaying from the building, or structure, or other object being worked on from the scaffolding. All parts of the scaffolding shall be of sufficient strength to support, bear, or withstand with safety any weight of persons, tools, appliances, or materials which might reasonably be placed on it or which are to be supported by it.

SEC. 242. Section 7156 of the Labor Code is amended to read:

7156. Any person employing or directing another to do or perform any labor in the construction, alteration, repairing, painting, or cleaning of any house, building, or structure within this state is guilty of a misdemeanor who does any of the following:

(a) Knowingly or negligently furnishes or erects, or causes to be furnished or erected for the performance of that labor, unsafe or improper scaffolding, slings, hammers, blocks, pulleys, stays, braces, ladders, irons, ropes, or other mechanical contrivances.

(b) Hinders or obstructs any officer or inspector of the Division of Occupational Safety and Health attempting to inspect such equipment under the provisions of this article or any law or safety order of this state.

(c) Destroys or defaces, or removes any notice posted thereon by any division officer or inspector, or permits the use thereof, after the equipment has been declared unsafe by the officer or inspector.

SEC. 243. Section 7265 of the Labor Code is amended to read:

7265. Safety belts and nets shall be required in accordance with Article 24 (commencing with Section 1669) of subchapter 4 of Chapter 4 of Part 1 of Title 8 of the California Administrative Code, Construction Safety Orders of the Division of Occupational Safety and Health.

SEC. 244. Section 7267 of the Labor Code is amended to read:

7267. The Division of Occupational Safety and Health shall

enforce this article.

SEC. 245. Section 7620 of the Labor Code is amended to read:

7620. "Division," as used in this part, means the Division of Occupational Safety and Health.

SEC. 246. Section 7801 of the Labor Code is amended to read:

7801. "Occupational Safety and Health Standards Board" as used in this part means the Occupational Safety and Health Standards Board of the Division of Occupational Safety and Health, Department of Industrial Relations, State of California.

SEC. 247. Section 7802 of the Labor Code is amended to read:

7802. The Occupational Safety and Health Standards Board shall adopt general orders pursuant to Section 6500, to make effective the provisions of this part.

SEC. 248. Section 7902 of the Labor Code is amended to read:

7902. The division shall promulgate and formulate rules and regulations for adoption by the Occupational Safety and Health Standards Board for the safe installation, repair, maintenance, use, operation, and inspection of all amusement rides as the division finds necessary for the protection of the general public using amusement rides. The rules and regulations shall be in addition to the existing applicable safety orders and will be concerned with engineering force stresses, safety devices, and preventative maintenance.

SEC. 249. Section 7951 of the Labor Code is amended to read:

7951. As used in this part:

(a) Tunnel shall include excavation, construction, alteration, repairing, renovating, or demolishing of any tunnel except tunnel work covered under the compressed air safety orders adopted by the Occupational Safety and Health Standards Board and manhole construction.

(b) "Tunnel" means an underground passageway, excavated by men and equipment working below the earth's surface, that provides a subterranean route along which men, equipment, or substances can move.

(c) "Mine" means any excavation or opening above or below ground used for removal of ore, minerals, gravel, sand, rock, or other materials intended for manufacturing or sale. It shall include quarries and open pit operations, other than a gravel pit or other pit where material is removed by a contractor or other person for his own use and not for sale to others. The term "mine" shall not include a mine that is operated exclusively by persons having a proprietary interest in such mine or by persons who are paid only a share of the profits from the mine, nor shall it include during any calendar year, any mine that produced less than five thousand dollars ($5,000) in ore, minerals, sand, rock, or other material during the preceding calendar year.

(d) "Access shaft" means a vertical shaft used as a regular means of worker access to underground mines and tunnels under construction, renovation, or demolition.

(e) "Lower explosive limit" means the lowest concentration at

which a gas or vapor can be ignited or will explode.

(f) "Face" means the head of the tunnel where soil is being removed, or that area in a mine where digging is underway.

(g) "Muck" means excavated dirt, rock, or other material.

(h) "Permissible equipment" means equipment tested and approved by the U.S. Bureau of Mines or acceptable to other authorities recognized by the division, and acceptable by the division, which is safe for use in gassy or extrahazardous tunnels or underground mines.

(i) "Division" means the Division of Occupational Safety and Health.

(j) "Board" means the Occupational Safety and Health Standards Board.

(k) "Underground mine" means a mine that consists of a subterranean excavation.

SEC. 250. Section 830.3 of the Penal Code, as amended by Chapter 10 of the Statutes of 1980, is amended to read:

830.3. (a) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(b) The Director of the Department of Alcoholic Beverage Control and persons employed by such department for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any premises licensed pursuant to the Alcoholic Beverage Control Act.

(c) The Chief and investigators of the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(d) (1) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code are peace officers. The authority of any such peace officers extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(2) Other deputies of the Department of Fish and Game deputized pursuant to Section 851 of the Fish and Game Code, and

county fish and game wardens deputized pursuant to Section 875 of such code, are peace officers, provided that the exclusive duty of such deputies or county fish and game wardens shall be the enforcement of the provisions of the Fish and Game Code and the regulations made pursuant thereto.

(e) The Director of Forestry and such employees or classes of employees of the Department of Forestry and voluntary fire wardens as are designated by him pursuant to Section 4156 of the Public Resources Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(f) Officers and employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(g) The secretary, chief investigator, and racetrack investigators of the California Horse Racing Board are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any horseracing enclosure licensed pursuant to the Horse Racing Law.

(h) Police officers of a regional park district, appointed or employed pursuant to Section 5561 of the Public Resources Code, and officers and employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of such code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as such duties are set forth in Sections 5561 and 5008, respectively, of such code.

(i) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(j) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department or fire protection agency of the state, or a county, city, or district regularly paid and employed as such, are peace officers; provided, that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated or who are suspected of having violated any fire law, and the primary duty, except as provided in Section 8597 of the Government Code, of fire department or fire protection agency members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention

and fire suppression. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, members of fire departments other than arson investigators are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(k) The Chief and such inspectors of the Food and Drug Section as are designated by him pursuant to subdivision (a) of Section 216 of the Health and Safety Code are peace officers; provided, that the exclusive duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(*l*) Persons designated by a local agency as park rangers, and regularly employed and paid as such, are peace officers; provided, that the primary duty of any such peace officer shall be the protection of park property and preservation of the peace therein. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, such park rangers are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(m) Members of a community college police department appointed pursuant to Section 72330 of the Education Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 72330 of the Education Code.

(n) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, are peace officers; provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(o) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Abuse and the Office of Statewide Health Planning and Development, are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his department or office. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, the investigators shall not carry firearms.

(p) Persons designated as security officers by a municipal utility district pursuant to Section 12820 of the Public Utilities Code are peace officers while engaged in the performance of their duties as security officers.

(q) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him are peace officers; provided that the primary duty of such investigators shall be enforcement of the provisions of Section 556 of the Insurance Code.

(r) The authority of any peace officer listed in subdivisions (c) through (q), inclusive, extends to any place in the state; provided,

that except as otherwise provided in this section, Section 830.6 of this code, or Section 8597 of the Government Code, any such peace officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any other law except:

(1) When in pursuit of any offender or suspected offender; or

(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or

(3) When, while in uniform, such officer is requested, as a peace officer, to render such assistance as is appropriate under the circumstances to the person making such request, or to act upon his complaint, in the event that no peace officer otherwise authorized to act in such circumstances is apparently and immediately available and capable of rendering such assistance or taking such action.

SEC. 251. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence

imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment either party may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution or the defendant, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) In all cases the Board of Prison Terms shall, not later than one year after the commencement of the term of imprisonment, review the sentence and shall by motion recommend that the court recall

the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not been previously sentenced if the board determines the sentence is disparate. The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in subdivisions (b), (c), (d), and (e) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

SEC. 252. Section 1182 of the Penal Code is amended to read:

1182. The application for a new trial must be made and determined before judgment, the making of an order granting probation, the commitment of a defendant for observation as a mentally disordered sex offender, or the commitment of a defendant for narcotics addiction or insanity, whichever first occurs, and the order granting or denying the application shall be immediately entered by the clerk in the minutes.

SEC. 253. Section 1349 of the Penal Code is amended to read:

1349. When an issue of fact is joined upon an indictment or information, the defendant may have any material witness, residing out of the state, examined in his behalf, as prescribed in this chapter, and not otherwise.

SEC. 254. Section 2931 of the Penal Code is amended to read:

2931. (a) In any case in which an inmate was sentenced to the state prison pursuant to Section 1170, or if he committed a felony before July 1, 1977, and he would have been sentenced under Section 1170 if the felony had been committed after July 1, 1977, the Department of Corrections shall have the authority to reduce the term prescribed under such section by one-third for good behavior and participation consistent with subdivision (d) of Section 1170.2. A document shall be signed by a prison official and given to the inmate, at the time of compliance with Section 2930, outlining the conditions which the inmate shall meet to receive the credit. The conditions specified in such document may be modified upon any of the following:

(1) Mutual consent of the prisoner and the Department of Corrections.

(2) The transfer of the inmate from one institution to another.

(3) The department's determination of the prisoner's lack of adaptability or success in a specific program or assignment. In such case the inmate shall be entitled to a hearing regarding the department's decision.

(4) A change in custodial status.

(b) Total possible good behavior and participation credit shall result in a four-month reduction for each eight months served in prison or in a reduction based on this ratio for any lesser period of time. Three months of this four-month reduction, or a reduction based on this ratio for any lesser period, shall be based upon

forbearance from any or all of the following activities:

(1) Assault with a weapon; or escape.

(2) Physically assaultive behavior; possession of a weapon without permission; possession of controlled substances without prescription; attempt to escape; or urging others by words or acts, with the intent to cause a riot, to commit acts of force or violence, at a time and place under circumstances which produce a clear and present and immediate danger of a riot which results in acts of force or violence; or active participation in a riot that results in acts of force or violence.

(3) Intentional destruction of state property valued in excess of fifty dollars ($50); falsification of a significant record or document; possession of escape tools without permission; or manufacture, sale or unauthorized possession or use of alcoholic beverages or any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code; or urging of others by words or acts, with the intent to cause a riot, to commit acts of force or violence at a time and place under circumstances which present a clear and present and immediate danger of a riot, or committing any act, with the intent to precipitate a riot, at a time and place under circumstances which present a clear and present and immediate danger of a riot. Activities specified in paragraph (1) may result in a maximum denial of good behavior credit of 45 days for each such prohibited activity. Activities specified in paragraph (2) may result in a maximum denial of good behavior credit of 30 days for each such prohibited activity. Activities specified in paragraph (3) may result in a maximum denial of good behavior credit of 15 days for each such prohibited activity. Nothing in this section shall prevent the Department of Corrections from seeking criminal prosecution for violations of law.

(c) One month of this four-month reduction, or a reduction based on this ratio for a lesser period, shall be based solely upon participation in work, educational, vocational, therapeutic or other prison activities. Failure to succeed after demonstrating a reasonable effort in the specified activity shall not result in loss of participation credit. Failure to participate in the specified activities can result in a maximum loss of credit of 30 days for each failure to participate. However, those confined either by choice or due to behavior problems shall be given specified activities commensurate with the custodial status.

SEC. 255. Section 3064 of the Penal Code is amended to read:

3064. From and after the suspension or revocation of the parole of any prisoner and until his return to custody he is an escapee and fugitive from justice and no part of the time during which he is an escapee and fugitive from justice shall be part of his term.

SEC. 256. Section 4530 of the Penal Code is amended to read:

4530. (a) Every prisoner confined in a state prison who, by force or violence, escapes or attempts to escape therefrom and every prisoner committed to a state prison who, by force or violence, escapes or attempts to escape while being conveyed to or from such

prison or any other state prison, or any prison road camp, prison forestry camp, or other prison camp or prison farm or any other place while under the custody of prison officials, officers or employees; or who, by force or violence, escapes or attempts to escape from any prison road camp, prison forestry camp, or other prison camp or prison farm or other place while under the custody of prison officials, officers or employees; or who, by force or violence, escapes or attempts to escape while at work outside or away from prison under custody of prison officials, officers, or employees, is punishable by imprisonment in a state prison for a term of two, four, or six years. The second term of imprisonment of a person convicted under this subdivision shall commence from the time he would otherwise have been discharged from prison. No additional probation report shall be required with respect to such offense.

(b) Every prisoner who commits an escape or attempts an escape as described in subdivision (a), without force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively. No additional probation report shall be required with respect to such offense.

(c) The willful failure of a prisoner who is employed or continuing his education, or who is authorized to secure employment or education, or who is temporarily released pursuant to the provisions of Section 2690, 2910, or 6254 of this code, or Section 3306 of the Welfare and Institutions Code, to return to the place of confinement not later than the expiration of a period during which he is authorized to be away from the place of confinement, is an escape from the place of confinement punishable as provided in this section. A conviction of a violation of this subdivision, not involving force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

SEC. 257. Section 4534 of the Penal Code is amended to read:

4534. Any person who willfully assists any paroled prisoner whose parole has been revoked, any escapee, any prisoner confined in any prison or jail, or any person in the lawful custody of any officer or person, to escape, or in an attempt to escape from such prison or jail, or custody, is punishable as provided in Section 4533.

SEC. 258. Section 5076.1 of the Penal Code is amended to read:

5076.1. The board shall meet at each of the state prisons at such times as may be necessary for a full and complete study of the cases of all prisoners whose applications for parole come before it. Other times and places of meeting may also be fixed by the board. Each member of the board shall receive his actual necessary traveling expenses incurred in the performance of his official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least five members shall be present, and no such action shall be valid unless it is concurred in by a majority vote of those present.

The board may meet and transact business in panels. Each panel shall consist of at least three persons. No action shall be valid unless

concurred in by a majority vote of the persons present.

Consideration of parole release for persons sentenced to life imprisonment pursuant to subdivision (b) of Section 1168 shall be heard by a panel, a majority of whose members are members of the Board of Prison Terms. A recommendation for recall of a sentence under subdivisions (d) and (f) of Section 1170 shall be made by a panel, a majority of whose members are members of the Board of Prison Terms.

The board may employ representatives to whom it may assign appropriate duties, including that of hearing cases and making decisions. Such decisions shall be made in accordance with policies approved by a majority of the total membership of the board.

SEC. 259. Section 12301 of the Penal Code is amended to read:

12301. (a) The term "destructive device," as used in this chapter, shall include any of the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(b) The term "explosive," as used in this chapter, shall mean any explosive defined in Section 12000 of the Health and Safety Code.

SEC. 260. Section 13518 of the Penal Code, as added by Chapter 373 of the Statutes of 1979, is amended and renumbered to read:

13517. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the detection, investigation, and response to cases in which a minor is a victim of an act of abuse or neglect prohibited by this code. The guidelines shall include procedures for determining whether or not a child should be taken into protective custody.

(b) The course of training leading to the basic certificate issued by the commission shall, not later than July 1, 1979, include adequate instruction in the procedures described in subdivision (a).

(c) The commission shall prepare and implement an optional course of training of specialists in the investigation of cases in which a minor is a victim of an act of abuse or neglect prohibited by this code.

(d) The commission shall consult with the State Office of Child Abuse Prevention in developing the guidelines and optional course of training.

SEC. 261. Section 326 of the Probate Code is amended to read:

326. (a) A petition for the probate of the will shall state all of the following:

(1) The jurisdictional facts.

(2) Whether the person named as executor consents to act or renounces his or her right to letters testamentary.

(3) The address of the decedent's residence at the time of his or her death.

(4) The names, ages, residences, and relation to decedent of the heirs, devisees and legatees of the decedent, so far as known to the petitioner.

(5) The character and estimated value of the property of the estate.

(6) The name of the person for whom letters testamentary are prayed.

(b) If the necessary jurisdictional facts actually exist, but through defect of form or error they or any of them are incorrectly stated in any petition or pleading, the court has and retains jurisdiction to correct the defect or error at any time. No such defect or error shall make the order admitting the will to probate or any subsequent proceeding void.

SEC. 262. The heading of Chapter 2A (commencing with Section 1435.1) of Division 4 of the Probate Code is repealed.

SEC. 263. Section 1469 of the Probate Code is amended to read:

1469. When a provision of this division applies the provisions of this code applicable to executors or administrators to proceedings under this division, a reference to Section 1200 in the provisions applicable to executors or administrators shall be deemed to be a reference to this chapter.

SEC. 264. Section 3472 of the Public Resources Code is amended to read:

3472. (a) The board shall enforce compliance with the provisions of this article and with the terms of registrations pursuant to this article.

(b) The board may employ any of the following means of civil enforcement: inspection of the operations of a registrant; issuance of an administrative order directing specified actions in accordance with a specified schedule; revocation of a registration, after providing an opportunity for a hearing; and a civil action seeking equitable relief or the civil penalties provided for in subdivision (c), or both.

(c) Any person who in the course of business violates any

provision of this article or rule or regulation of the board promulgated pursuant thereto, in addition to any penalty provided by law, is subject to a civil penalty of not more than one thousand dollars ($1,000) for each such violation. Any other person who violates any provision of this article or rule or regulation of the board promulgated pursuant thereto, in addition to any penalty provided by law, is subject to a civil penalty of not more than one hundred dollars ($100) for each such violation. For purposes of this section, each day of a continuing violation is a separate and distinct violation.

When establishing the amount of civil liability pursuant to this subdivision, the court shall consider, in addition to other relevant circumstances, the following:

(1) The extent of the harm caused by the violation or deposit.

(2) The persistence of the violation or deposit.

(3) The number of prior violations by the same violator.

(4) The deterrent value of the penalty based on the financial resources of the violator.

SEC. 265. Section 4586 of the Public Resources Code is amended to read:

4586. Within six months of the receipt of the work completion report specified in Section 4585, the director shall determine, by inspection, whether the work described in the timber harvesting plan, excluding stocking, has been properly completed in conformity with the rules and regulations of the board and standards of this chapter. If it has been so completed, the director shall issue a report of satisfactory completion of all items except stocking. If not, the director shall take such corrective action as he deems appropriate in accordance with the provisions of Article 8 (commencing with Section 4601).

SEC. 266. Section 4791 of the Public Resources Code is amended to read:

4791. The purpose of this chapter is to encourage private and public investments in, and an improved management of, forest lands and resources within the state to ensure adequate future high quality timber supplies, related employment and other economic benefits, and the protection, maintenance, and enhancement of a productive and stable forest resource system for the benefit of present and future generations.

The primary emphasis of the program established by this chapter shall be upon improving the timber productivity of forest lands in the state; provided, that consistent with this primary goal, the program shall also be managed to improve all forest resources, such as fish and wildlife habitat and soil resources, so that the overall effect of the program is to improve the total forest resource system.

SEC. 267. Section 4800 of the Public Resources Code is amended and renumbered to read:

4789. This chapter shall be known and may be cited as the Forest Resources Assessment and Policy Act of 1977.

SEC. 268. Section 4801 of the Public Resources Code is amended

and renumbered to read:

4789.1. The Legislature finds and declares as follows:

(a) The forest resources of California provide vitally important economic and environmental benefits to the people of California.

(b) Demands on forest resources in California are expected to increase significantly in the next decades.

(c) Forest resources in California are limited.

(d) Better use of forest resources can result where there is good information as to anticipated needs and constraints and the potentials for meeting such needs consistent with Section 4513.

(e) The necessary information is not now available and should be developed.

(f) It is the intent of the Legislature to provide for the assessment of California's forest resources in order to develop and implement forest resources policies for the state.

SEC. 269. Section 4802 of the Public Resources Code is amended and renumbered to read:

4789.2. As used in this chapter:

(a) "Board" means State Board of Forestry.

(b) "Resources Planning Act" means the Forest and Rangelands Renewable Resources Planning Act of 1974 (16 U.S.C. 1601-1610).

(c) "Assessment" means the forest resource assessment and analysis developed pursuant to Section 4789.3.

(d) "Director" means the Director of Forestry.

(e) "Forest resources" means those uses and values associated with, attainable from, or closely tied to, forest land, including fish, range, recreation, timber, watershed, wilderness, and wildlife.

(f) "Forest land" means timberland defined pursuant to subdivision (h), and other lands which have been withdrawn from timber production, such as state parks, national parks, and wilderness areas.

(g) "Timberland" means land on which is growing a significant stand of trees of commercial species, or potential commercial species, either in public or private ownership or which is generally capable of maintaining a stand of trees in perpetuity and not withdrawn or otherwise devoted to uses other than timber production.

(h) "Timber" means wood fiber of commercial or potential commercial species growing on timberland as defined in subdivision (g).

SEC. 270. Section 4803 of the Public Resources Code is amended and renumbered to read:

4789.3. (a) Under policy guidance from the board and in consultation with the Secretary of the Resources Agency, the director shall prepare and submit to the board and the Secretary of the Resources Agency, a preliminary forest resource assessment and analysis not later than July 1, 1979, and shall present a full and updated assessment by January 1, 1987, and by January 1 of each fifth year thereafter. The assessment and analysis shall recognize distinct

differences in ownership and management of forest resources in California between the various public and the various private owners and shall include, but not be limited to, the following:

(1) An assessment and analysis of the supply and availability of the various present and potential forest resources of the state, including limits to such supplies imposed by natural site conditions, such as slope stability and erosion hazard, or by governmental restriction, such as special zoning. Among resource potentials to be evaluated are opportunities to:

(A) Improve and rehabilitate the understocked timberland in California and to more fully utilize the productive potential for growing and harvesting timber.

(B) Improve wood fiber utilization and wood product recycling.

(C) Salvage trees infested with insects and diseases on timberland.

(D) Improve the management of forest wildlife and wildlife habitat within the state.

(E) Increase the quantity and quality of recreation available in the state.

(F) Improve and rehabilitate forest range areas within the state.

(G) Increase the potential to use wood fiber from timberland as an economically viable source of fuel for energy production.

(2) An analysis of present and anticipated demand for various forest resources in the state.

(3) A description and evaluation of current state programs and responsibilities in cooperative state-federal forestry programs, and management of state and local public forest and related lands.

(4) A discussion of important policy considerations, laws, regulations, management responsibilities, and other factors expected to influence and significantly affect the use, ownership, and management of forest and range resources.

(5) When assessing various resource potentials which could be obtained from forest lands, the director shall include an evaluation of probable direct and indirect economic and environmental benefits and costs, including opportunity costs, associated with realizing such potentials.

(b) In preparing the assessment, the director, under policy guidance of the board, shall solicit the cooperation of, and information collected by, public and private organizations, federal forest resource agencies, state agencies concerned with forest resources, county planning and taxation agencies, and state-supported forest resource research agencies.

(c) For the purpose of assisting the director and the board in preparing the assessment and its revisions, the board may appoint such advisory committees as it deems necessary. Such committees shall consist of individuals with expertise in forest resource fields, with particular emphasis on survey and program analysis, and shall include representatives of state agencies concerned with the use of forest resources.

(d) In preparation of the assessment the director shall:

(1) Analyze the need to develop and maintain an effective system for the collection, analysis, and display of such data in forms that contribute to the achievement of the purposes of this chapter

(2) Identify high-priority needs for completing the data base and analytical framework essential to improving the quality of future assessments.

(3) Evaluate the accuracy and completeness of existing data and of steps needed to improve the accuracy and completeness of data for future assessments.

SEC. 271. Section 4804 of the Public Resources Code is amended and renumbered to read:

4789.4. (a) Based on a review of the assessment prepared pursuant to Section 4789.3, and consistent with Sections 740 and 4513, the board shall prepare a forest resource policy statement.

(b) Such policy statement shall recognize distinct differences between the various public and various private owners of forest resources in the state and should include, insofar as is possible, the following:

(1) A delineation of specific needs and opportunities for promoting both public and private forest resource management programs in California.

(2) A discussion of priorities for accomplishment of program opportunities, with specified costs, results, and possible constraints on implementation.

(3) An analysis of the relation of the alternative forest resource policies to employment opportunities in California.

SEC. 272. Section 4805 of the Public Resources Code is amended and renumbered to read:

4789.5. The board shall hold public hearings on the assessment and the proposed policy statement prepared pursuant to Sections 4789.3 and 4789.4.

SEC. 273. Section 4806 of the Public Resources Code is amended and renumbered to read:

4789.6. (a) The board, assisted by the director, shall biennially determine state needs for forest management research and recommend the conduct of needed projects to the Governor and the Legislature.

(b) To facilitate reporting and updating the assessment pursuant to Section 4789.3, the director, under guidance by the board, may prepare and implement a forest resource management information storage and retrieval program regarding forest land conditions in the state. Such program shall be coordinated and integrated to the maximum extent practicable with data storage and retrieval programs of other state and federal agencies and institutions. The director shall review existing forest resource management storage, retrieval, and analysis systems in the institutions of higher learning in this state, and insofar as the board deems desirable, may utilize such systems as a model for the state program established pursuant

to this section.

SEC. 274. Section 4807 of the Public Resources Code is amended and renumbered to read:

4789.7. (a) The director shall convey the assessment and its updates to federal agencies charged with managing public land within the state.

(b) To assure the availability and compatibility of data and scientific information needed for development and implementation of the assessment, the board and the director shall cooperate with the United States Department of Agriculture in conducting surveys and analyses as provided for in the Resources Planning Act and with other federal agencies as provided by federal law.

SEC. 275. Section 5093.33 of the Public Resources Code is amended to read:

5093.33. (a) There is hereby established a California wilderness preservation system to be composed of state-owned areas designated by the Legislature as "wilderness areas" and units of the state park system classified as "state wildernesses" by the State Park and Recreation Commission pursuant to Article 1.7 (commencing with Section 5019.50) of Chapter 1, and these shall be administered for the use and enjoyment of the people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, provide for the protection of such areas, preserve their wilderness character, and provide for the gathering and dissemination of information regarding their use and enjoyment as wilderness. No state-owned areas shall be designated as "wilderness areas" except as provided for in this chapter or by subsequent legislative enactment.

(b) Notwithstanding the inclusion of an area within the system, a wilderness area shall continue to be subject to the jurisdiction of the state agency or agencies having jurisdiction thereover immediately prior to its inclusion in the system. The secretary shall adopt guidelines for the management of wilderness areas. Each state agency or agencies having jurisdiction over a wilderness area shall adopt regulations for the management of such areas consistent with the guidelines adopted by the secretary and the objectives of this chapter. Such regulations shall include provisions to protect endangered or rare native plant and animal species.

(c) A wilderness area, in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. A wilderness area is further defined to mean an area of relatively undeveloped state-owned land which has retained its primeval character and influence or has been substantially restored to a near natural appearance, without permanent improvements or human habitation, other than semi-improved campgrounds and primitive latrines, and which is protected and managed so as to preserve its natural conditions and which:

(1) Appears generally to have been affected primarily by the

forces of nature, with the imprint of man's work substantially unnoticeable.

(2) Has outstanding opportunities for solitude or a primitive and unconfined type of recreation.

(3) Has at least 5,000 acres of land, either by itself or in combination with contiguous areas possessing wilderness characteristics, or is of sufficient size as to make practicable its preservation and use in an unimpaired condition.

(4) May also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

SEC. 276. Section 6805 of the Public Resources Code is amended to read:

6805. The commission shall reserve and may exercise the authority to cancel any prospecting permit or lease upon which a commercially valuable deposit of minerals or geothermal resources other than oil or gas has not been discovered or upon which oil or gas has not been discovered in paying quantities upon failure of the permittee or lessee (after 30 days' written notice and demand for performance) to exercise due diligence and care in the prosecution of the prospecting or development work in accordance with the terms and conditions of the permit or lease. After discovery of a commercially valuable deposit of minerals or geothermal resources other than oil or gas on lands subject to any permit or lease issued pursuant to this chapter, or after discovery of oil or gas in paying quantities on lands subject to any lease, the permit or lease may be forfeited and canceled only upon failure of the lessee after 90 days' written notice and demand to comply with any of the provisions of the permit or lease or of the regulations applicable thereto and in force at the date of the permit or lease. However, in the event of any cancellation the lessee under any oil or gas lease or the permittee or lessee under any geothermal resource permit or lease shall have the right to retain under the permit or lease any and all drilling or producing wells as to which no default exists, together with a parcel of land surrounding any well or wells and any rights-of-way through the lands, under permit or lease, as may be reasonably necessary to enable the permittee or lessee to drill and operate the retained well or wells. In the event of the cancellation of any permit or lease the permittee or lessee shall have a reasonable time within which to remove any and all property, equipment and facilities owned or used by the permittee or lessee in connection with operations under the permit or lease. The commission shall insert in every permit or lease issued under this chapter appropriate provisions for its cancellation in accordance with the provisions of this section.

SEC. 277. Section 21002 of the Public Resources Code is amended to read:

21002 The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant

environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

SEC. 278. Section 21174 of the Public Resources Code is amended to read:

21174. No provision of this division is a limitation or restriction on the power or authority of any public agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer, including, but not limited to, the powers and authority granted to the California Coastal Commission or any regional coastal commission pursuant to Division 20 (commencing with Section 30000). To the extent of any inconsistency or conflict between the provisions of the California Coastal Act of 1976, Division 20 (commencing with Section 30000), and the provisions of this division, the provisions of Division 20 (commencing with Section 30000) shall control.

SEC. 279. A heading is added immediately preceding Section 25675 of the Public Resources Code, to read:

CHAPTER 7.6. THE CLEAN COAL ACCOUNT

SEC. 280. Section 25901 of the Public Resources Code is amended to read:

25901. (a) Within 30 days after the commission issues its determination on any matter specified in this division, except as provided in Section 25531, any aggrieved person may file with the superior court a petition for a writ of mandate for review thereof. Failure to file such an action shall not preclude a person from challenging the reasonableness and validity of a decision in any judicial proceedings brought to enforce such decision for other civil remedies.

(b) The evidence before the court shall consist of the record before the commission, and any other relevant facts which, in the judgment of the court, should be considered in determining the validity of any decision of the commission.

(c) Except as otherwise provided herein, the provisions of subdivisions (f) and (g) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section.

SEC. 281. Section 30300 of the Public Resources Code is amended to read:

30300. There is in the Resources Agency the California Coastal Commission and, until not later than June 30, 1981, six regional coastal commissions.

SEC. 282. The heading of Part 0.5 (commencing with Section 95) of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 283. Section 202.2 of the Revenue and Taxation Code is amended to read:

202.2. Any reduction in property taxes on leased property used for libraries and museums that are free and open to the public, leased property used exclusively for public schools, community colleges, state colleges, or state universities, including the University of California, or leased property used exclusively for educational purposes by a nonprofit institution of higher education and granted the exemption set forth in subdivision (d) or (e) of Section 3 of Article XIII of the California Constitution shall inure to the benefit of the lessee institution. If the lessor claims the exemption and if the lease or rental agreement does not specifically provide that the exemption contained in subdivision (d) or (e) of Section 3 of Article XIII is taken into account in fixing the terms of the agreement, the lessee shall receive a reduction in rental payments or a refund thereof, if already paid, in an amount equal to the reduction in taxes.

If the lessor does not claim the exemption on property eligible for the exemption contained in subdivision (d) or (e) of Section 3 of Article XIII, the lessee may file a claim for refund under Section 5096 with respect to taxes paid by the lessor on the property. For purposes of Sections 5097 and 5140, the lessee shall be deemed to be the person who paid the tax, and the refund shall be made directly to the lessee. Notwithstanding the provisions of paragraph (1) of subdivision (a) of Section 270, the full amount of tax paid by the lessor shall be refunded to the lessee.

Any refund granted pursuant to this part shall not be considered a reduction in the sales price or gross receipts from the rental of the property for purposes of Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), or Part 1.6 (commencing with Section 7251).

SEC. 284. Section 6012.7 of the Revenue and Taxation Code is repealed.

SEC. 285. Section 8732.1 of the Revenue and Taxation Code is amended to read:

8732.1. Without requiring the issuance of a vendor use fuel tax permit, the board may issue written authorization to a political subdivision of this state which holds a valid user use fuel tax permit to furnish fuel as an accommodation to another political subdivision of this state which holds a valid user use fuel tax permit if the board finds that the political subdivision furnishing the fuel agrees to report and pay all taxes applicable to the fuel it furnishes and each political subdivision agrees to keep such records and file such reports as the board deems necessary to ensure that all applicable taxes shall be paid.

For the purposes of this section "political subdivision of this state" means any governmental organization formed and operating under the authority of the laws of this state and includes counties, cities,

cities and counties, school districts, fire protection districts, irrigation districts, and recreation districts.

SEC. 286. Section 13696 of the Revenue and Taxation Code is amended to read:

13696. If at the time of his death a decedent has a general power of appointment with respect to property, the exercise of the power is subject to this part as a transfer of the property from the decedent to the person to whom the property is appointed and the decedent's failure to exercise the power is subject to this part as a transfer of the property from the decedent to the person to whom the property passes by virtue of the nonexercise of the power. For purposes of this section, the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a condition precedent of giving a notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

SEC. 287. Section 17160 of the Revenue and Taxation Code, as added by Chapter 1168 of the Statutes of 1979, is amended and renumbered to read:

17163. (a) Except as provided in subdivision (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan.

(b) (1) In the case of a highly compensated participant, subdivision (a) shall not apply to any benefit attributable to a plan year for which the plan discriminates in favor of—

(A) Highly compensated individuals as to eligibility to participate, or

(B) Highly compensated participants as to contributions and benefits.

(2) For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) shall be treated as received or accrued in the participant's taxable year in which the plan year ends.

(c) For purposes of subparagraph (B) of paragraph (1) of subdivision (b), a cafeteria plan does not discriminate where nontaxable benefits and total benefits (or employer contributions allocable to nontaxable benefits and employer contributions for total benefits) do not discriminate in favor of highly compensated participants.

(d) For purposes of this section—

(1) The term "cafeteria plan" means a written plan under which—

(A) All participants are employees, and

(B) The participants may choose among two or more benefits. The benefits which may be chosen may be nontaxable benefits, or cash, property, or other taxable benefits.

(2) The term "cafeteria plan" does not include any plan which

provides for deferred compensation.

(e) For purposes of this section—

(1) The term "highly compensated participant" means a participant who is—

(A) An officer,

(B) A shareholder owning more than 5 percent of the voting power or value of all classes of stock of the employer,

(C) Highly compensated, or

(D) A spouse or dependent (within the meaning of Sections 17056 to 17059.5, inclusive) of an individual described in subparagraph (A), (B), or (C).

(2) The term "highly compensated individual" means an individual who is described in subparagraph (A), (B), (C), or (D) of paragraph (1).

(f) For purposes of this section, the term "nontaxable benefit" means any benefit which, with the application of subdivision (a), is not includable in the gross income of the employee.

(g) (1) For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Franchise Tax Board finds to be a collective-bargaining agreement between employee representatives and one or more employers.

(2) For purposes of subparagraph (B) of paragraph (1) of subdivision (b), a cafeteria plan which provides health benefits shall not be treated as discriminatory if—

(A) Contributions under the plan on behalf of each participant include an amount which—

(i) Equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated participants similarly situated, or

(ii) Equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest cost health benefit coverage under the plan, and

(B) Contributions or benefits under the plan in excess of those described in subparagraph (A) bear a uniform relationship to compensation.

(3) For purposes of subparagraph (A) of paragraph (1) of subdivision (b), a classification shall not be treated as discriminatory if the plan—

(A) Benefits a group of employees described in subparagraph (B) of paragraph (1) of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600, and

(B) Meets the requirements of clauses (i) and (ii):

(i) No employee is required to complete more than three years of employment with the employer or employers maintaining the plan as a condition of participation in the plan, and the employment requirement for each employee is the same.

(ii) Any employee who has satisfied the employment requirement of clause (i) and who is otherwise entitled to participate

in the plan commences participation no later than the first day of the first plan year beginning after the date the employment requirement was satisfied unless the employee was separated from service before the first day of that plan year.

(4) All employees who are treated as employed by a single employer under subsection (b) or (c) of Section 414 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 shall be treated as employed by a single employer for purposes of this section.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

SEC. 288. Section 17161 of the Revenue and Taxation Code, as added by Chapter 1168 of the Statutes of 1979, is amended and renumbered to read:

17164. (a) Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subdivision (b).

(b) (1) For purposes of this section an educational assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with educational assistance. The program must meet the requirements of paragraphs (2) through (6) of this subdivision.

(2) The program shall benefit employees who qualify under a classification set up by the employer and found by the Franchise Tax Board not to be discriminatory in favor of employees who are officers, owners, or highly compensated, or their dependents. For purposes of this paragraph, there shall be excluded from consideration employees not included in the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective-bargaining agreement between employee representatives and one or more employers, if there is evidence that educational assistance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

(3) Not more than 5 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

(4) A program must not provide eligible employees with a choice between educational assistance and other remuneration includable in gross income. For purposes of this section, the business practices of the employer (as well as the written program) will be taken into account.

(5) A program referred to in paragraph (1) is not required to be funded.

(6) Reasonable notification of the availability and terms of the program must be provided to eligible employees.

(c) For purposes of this section—

(1) The term "educational assistance" means—

(A) The payment, by an employer, of expenses incurred by or on behalf of an employee for education of the employee (including, but not limited to, tuition, fees, and similar payments, books, supplies, and equipment), and

(B) The provision, by an employer, of courses of instruction for such employee (including books, supplies, and equipment),

but does not include payment for, or the provision of, tools or supplies which may be retained by the employee after completion of a course of instruction, or meals, lodging, or transportation. The term "educational assistance" also does not include any payment for, or the provision of any benefits with respect to, any course or other education involving sports, games, or hobbies.

(2) The term "employee" includes, for any year, an individual who is an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (relating to self-employed individuals).

(3) An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).

(4) (A) Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of Section 1563 of the Internal Revenue Code of 1954 (without regard to Section 1563(e)(3)(C) of the Internal Revenue Code of 1954).

(B) The provision, by an employer, of courses of instruction for such employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Franchise Tax Board, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

(5) An educational assistance program shall not be held or considered to fail to meet any requirements of subsection (b) merely because—

(A) Of utilization rates for the different types of educational assistance made available under the program; or

(B) Successful completion, or attaining a particular course grade, is required for or considered in determining reimbursement under the program.

(6) This section shall not be construed to affect the deduction or inclusion in income of amounts (not within the exclusion under this section) which are paid or incurred, or received as reimbursement, for educational expenses under Section 17150, 17202 through 17202.3, or 17252.

(7) No deduction or credit shall be allowed under any other section of this chapter for any amount excluded from income by reason of this section.

(d) This section shall not apply to taxable years beginning after December 31, 1983.

SEC. 289. Section 17415 of the Revenue and Taxation Code is amended to read:

17415. (a) For purposes of subdivision (a) of Section 17411, a corporation shall not be considered to be a collapsible corporation with respect to any sale or exchange of stock of the corporation by a shareholder, if, at the time of such sale or exchange, the sum of—

(1) The net unrealized appreciation in Section 17415 assets of the corporation (as defined in paragraph (1) of subdivision (e)), plus

(2) If the shareholder owns more than 5 percent in value of the outstanding stock of the corporation, the net unrealized appreciation in assets of the corporation (other than assets described in paragraph (1)) which would be Section 17415 assets under subparagraphs (A) and (C) of paragraph (1) of subdivision (e) if the shareholder owned more than 20 percent in value of such stock, plus

(3) If the shareholder owns more than 20 percent in value of the outstanding stock of the corporation and owns, or at any time during the preceding three-year period owned, more than 20 percent in value of the outstanding stock of any other corporation more than 70 percent in value of the assets of which are, or were at any time during which such shareholder owned during such three-year period more than 20 percent in value of the outstanding stock, assets similar or related in service or use to assets comprising more than 70 percent in value of the assets of the corporation, the net unrealized appreciation in assets of the corporation (other than assets described in paragraph (1)) which would be Section 17415 assets under subparagraphs (A) and (C) of paragraph (1) of subdivision (e) if the determination whether the property, in the hands of such shareholder, would be property gain from the sale or exchange of which would under any provision of this chapter be considered in whole or in part as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 18182, were made—

(A) By treating any sale or exchange by such shareholder of stock in such other corporation within the preceding three-year period (but only if at the time of such sale or exchange the shareholder owned more than 20 percent in value of the outstanding stock in such other corporation) as a sale or exchange by such shareholder of his proportionate share of the assets of such other corporation, and

(B) By treating any sale or exchange of property by such other corporation within such three-year period (but only if at the time of such sale or exchange the shareholder owned more than 20 percent in value of the outstanding stock in such other corporation), gain or loss on which was not recognized to such other corporation under Section 24512 of the Bank and Corporation Tax Law, as a sale or exchange by such shareholder of his proportionate share of the property sold or exchanged,

does not exceed an amount equal to 15 percent of the net worth of the corporation. This paragraph shall not apply to any sale or exchange of stock to the issuing corporation or, in the case of a shareholder who owns more than 20 percent in value of the outstanding stock of the corporation, to any sale or exchange of stock by such shareholder to any person related to him (within the meaning of subdivision (h)).

(b) For purposes of subdivision (b) of Section 17411, a corporation shall not be considered to be a collapsible corporation with respect to any distribution to a shareholder pursuant to a plan of complete liquidation if, by reason of the application of subdivision (d) of this section, Section 24512 of the Bank and Corporation Tax Law applies to sales or exchanges of property by the corporation within the 12-month period beginning on the date of the adoption of such plan, and if, at all times after the adoption of the plan of liquidation, the sum of—

(1) The net unrealized appreciation in Section 17415 assets of the corporation (as defined in paragraph (1) of subdivision (e)), plus

(2) If the shareholder owns more than 5 percent in value of the outstanding stock of the corporation, the net unrealized appreciation in assets of the corporation described in paragraph (2) of subdivision (a) (other than assets described in paragraph (1) of this subdivision), plus

(3) If the shareholder owns more than 20 percent in value of the outstanding stock of the corporation and owns, or at any time during the preceding three-year period owned, more than 20 percent in value of the outstanding stock of any other corporation more than 70 percent in value of the assets of which are, or were at any time during which such shareholder owned during such three-year period more than 20 percent in value of the outstanding stock, assets similar or related in service or use to assets comprising more than 70 percent in value of the assets of the corporation, the net unrealized appreciation in assets of the corporation described in paragraph (3) of subdivision (a) (other than assets described in paragraph (1) of this subdivision), does not exceed an amount equal to 15 percent of the net worth of the corporation.

(c) For purposes of Section 17402, a corporation shall not be considered to be a collapsible corporation if at all times after the adoption of the plan of liquidation, the net unrealized appreciation in Section 17415 assets of the corporation (as defined in paragraph (2) of subdivision (e)) does not exceed an amount equal to 15 percent of the net worth of the corporation.

(d) For purposes of Sections 24512 to 24514, inclusive, of the Bank and Corporation Tax Law, a corporation shall not be considered to be a collapsible corporation with respect to any sale or exchange by it of property within the 12-month period beginning on the date of the adoption of a plan of complete liquidation, if—

(1) At all times after the adoption of such plan, the net unrealized appreciation in Section 17415 assets of the corporation

(as defined in paragraph (1) of subdivision (e)) does not exceed an amount equal to 15 percent of the net worth of the corporation,

(2) Within the 12-month period beginning on the date of the adoption of such plan, the corporation sells substantially all of the properties held by it on such date, and

(3) Following the adoption of such plan, no distribution is made of any property which in the hands of the corporation or in the hands of the distributee is property in respect of which a deduction for exhaustion, wear and tear, obsolescence, amortization, or depletion is allowable.

This paragraph shall not apply with respect to any sale or exchange of property by the corporation to any shareholder who owns more than 20 percent in value of the outstanding stock of the corporation or to any person related to such shareholder (within the meaning of subdivision (h)), if such property in the hands of the corporation or in the hands of such shareholder or related person is property in respect of which a deduction for exhaustion, wear and tear, obsolescence, amortization, or depletion is allowable.

(e) (1) For purposes of subdivisions (a), (b) and (d), the term "Section 17415 asset" means, with respect to property held by any corporation—

(A) Property (except property used in the trade or business, as defined in subdivision (i)) which in the hands of the corporation is, or, in the hands of a shareholder who owns more than 20 percent in value of the outstanding stock of the corporation, would be, property gain from the sale or exchange of which would under any provision of this part be considered in whole or in part as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 18182;

(B) Property used in the trade or business (as defined in subdivision (i)), but only if the unrealized depreciation on all such property on which there is unrealized depreciation exceeds the unrealized appreciation on all such property on which there is unrealized appreciation;

(C) If there is net unrealized appreciation on all property used in the trade or business (as defined in subdivision (i)), property which, in the hands of a shareholder who owns more than 20 percent in value of the outstanding stock of the corporation, would be property gain from the sale or exchange of which would under any provision of this part be considered in whole or in part as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 18182; and

(D) Property (unless included under subparagraph (A), (B), or (C)) which consists of a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, or any interest in any such property, if the property was created in whole or in part by the personal efforts of, or (in the case of a letter, memorandum, or similar property) was prepared, or produced in whole or in part for, any individual who owns more than 5 percent

in value of the stock of the corporation.

The determination as to whether property of the corporation in the hands of the corporation is, or in the hands of a shareholder would be property gain from the sale or exchange of which would under any provision of this part be considered in whole or in part as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 18182 shall be made as if all property of the corporation has been sold or exchanged to one person in one transaction.

(2) For purposes of subdivision (c), the term "Section 17415 asset" means, with respect to property held by any corporation, property described in subparagraphs (A), (B), (C), and (D) of paragraph (1), except that subparagraphs (A) and (C) shall apply in respect of any shareholder who owns more than 5 percent in value of the outstanding stock of the corporation (in lieu of any shareholder who owns more than 20 percent in value of such stock).

(f) (1) For purposes of this section, the term "net unrealized appreciation" means, with respect to the assets of a corporation, the amount by which—

(A) The unrealized appreciation in such assets on which there is unrealized appreciation, exceeds

(B) The unrealized depreciation in such assets on which there is unrealized depreciation.

(2) For purposes of paragraph (1) and subparagraph (A) of paragraph (1) of subdivision (e), the term "unrealized appreciation" means, with respect to any asset, the amount by which—

(A) The fair market value of such asset, exceeds

(B) The adjusted basis for determining gain from the sale or other disposition of such asset.

(3) For purposes of paragraph (1) and subparagraph (A) of paragraph (1) of subdivision (e), the term "unrealized depreciation" means, with respect to any asset, the amount by which—

(A) The adjusted basis for determining gain from the sale or other disposition of such asset, exceeds

(B) The fair market value of such asset.

(4) For purposes of this subdivision (but not subparagraph (A) of paragraph (1) of subdivision (e)), in the case of any asset on the sale or exchange of which only a portion of the gain would under any provision of this part be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 18182, there shall be taken into account only an amount of the unrealized appreciation in such asset which is equal to such portion of the gain.

(g) For purposes of this section, the net worth of a corporation, as of any day, is the amount by which—

(1) (A) The fair market value of all its assets at the close of such day, plus

(B) The amount of any distribution in complete liquidation made by it on or before such day, exceeds

(2) All its liabilities at the close of such day.

For purposes of this subdivision, the net worth of a corporation as of any day shall not take into account any increase in net worth during the one-year period ending on such day to the extent attributable to any amount received by it for stock, or as a contribution to capital or as paid-in surplus, if it appears that there was not a bona fide business purpose for the transaction in respect of which such amount was received.

(h) For purposes of subdivisions (a) and (d), the following persons shall be considered to be related to a shareholder:

(1) If the shareholder is an individual—

(A) His spouse, ancestors, and lineal descendants, and

(B) A corporation which is controlled by such shareholder.

(2) If the shareholder is a corporation—

(A) A corporation which controls, or is controlled by the shareholder, and

(B) If more than 50 percent in value of the outstanding stock of the shareholder is owned by any person, a corporation more than 50 percent in value of the outstanding stock of which is owned by the same person.

For purposes of determining the ownership of stock in applying paragraphs (1) and (2), the rules of Section 17289 shall apply, except that the family of an individual shall include only his spouse, ancestors, and lineal decendants. For purposes of this subdivision, control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation.

(i) For purposes of this section, the term "property used in the trade or business" means property described in Section 18182, without regard to any holding period therein provided.

(j) For purposes of this section (other than subdivision (h)), the ownership of stock shall be determined in the manner prescribed in Section 17414.

(k) In determining whether or not any corporation is a collapsible corporation within the meaning of Section 17412, the fact that such corporation, or such corporation with respect to any of its shareholders, does not meet the requirements of subdivision (a), (b), (c), or (d) of this section shall not be taken into account, and such determination, in the case of a corporation which does not meet such requirements, shall be made as if this section had not been enacted.

SEC. 290. Section 17535 of the Revenue and Taxation Code is amended to read:

17535. (a) For purposes of this article, the term "issuing or assuming at stock option in a transaction to which Section 17535(a) applies" means a substitution of a new option for the old option, or an assumption of the old option, by an employer corporation, or a parent or subsidiary of such corporation, by reason of a corporate merger, consolidation, acquisition of property or stock, separation,

reorganization, or liquidation, if—

(1) The excess of the aggregate fair market value of the shares subject to the option immediately after the substitution or assumption over the aggregate option price of such shares is not more than the excess of the aggregate fair market value of all shares subject to the option immediately before such substitution or assumption over the aggregate option price of such shares, and

(2) The new option or the assumption of the old option does not give the employee additional benefits which he did not have under the old option.

For purposes of this subdivision, the parent-subsidiary relationship shall be determined at the time of any such transaction under the subdivision.

(b) For purposes of this article, if stock is received by an individual in a distribution to which Sections 17335, 17336, 17432 to 17439 inclusive, or 18102 (or so much of Section 18081 as relates to Section 18102) apply, and such distribution was made with respect to stock transferred to him upon his exercise of the option, such stock shall be considered as having been transferred to him on his exercise of such option. A similar rule shall be applied in the case of a series of such distributions.

(c) (1) Except as provided in paragraph (2), for purposes of this article, the term "disposition" includes a sale, exchange, gift, or a transfer of legal title, but does not include—

(A) A transfer from a decedent to an estate or a transfer by bequest or inheritance;

(B) An exchange to which Sections 17432 to 17439 inclusive, or 18102 (or so much of Section 18081 as relates to Section 18102) apply; or

(C) A mere pledge or hypothecation.

(2) The acquisition of a share of stock in the name of the employee and another jointly with the right of survivorship or a subsequent transfer of a share of stock into such joint ownership shall not be deemed a disposition, but a termination of such joint tenancy (except to the extent such employee acquires ownership of such stock) shall be treated as a disposition by him occurring at the time such joint tenancy is terminated.

(d) For purposes of this article, in applying the percentage limitations of Sections 17532(b) (7), 17533(b) (3), and 17534(b) (3)—

(1) The individual with respect to whom such limitation is being determined shall be considered as owning the stock owned, directly or indirectly, by or for his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(2) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

(e) For purposes of this article, the term "parent corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations ending with the employer

corporation if, at the time of the granting of the option, each of the corporations other than the employer corporation owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(f) For purposes of this article, the term "subsidiary corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations beginning with the employer corporation if, at the time of the granting of the option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(g) In applying subdivisions (e) and (f) for purposes of Sections 17532(a) (2), 17533(a) (2), and 17534(a) (2), there shall be substituted for the term "employer corporation" wherever it appears in subdivisions (e) and (f) the term "grantor corporation," or the term "corporation issuing or assuming a stock option in a transaction to which Section 17535(a) applies," as the case may be.

(h) (1) For purposes of this article, if the terms of any option to purchase stock are modified, extended, or renewed, such modification, extension, or renewal shall be considered as the granting of a new option.

(2) (A) In the case of the transfer of stock pursuant to the exercise of an option to which Section 17533 or 17534 applies and which has been so modified, extended, or renewed, then, except as provided in subparagraph (B), the fair market value of such stock at the time of the granting of such option shall be considered as whichever of the following is the highest:

(i) The fair market value of such stock on the date of the original granting of the option,

(ii) The fair market value of such stock on the date of the making of such modification, extension, or renewal, or

(iii) The fair market value of such stock at the time of the making of any intervening modification, extension, or renewal.

(B) Subparagraph (A) shall not apply with respect to a modification, extension, or renewal of a restricted stock option before January 1, 1964 (or after December 31, 1963, if made pursuant to a binding written contract entered into before January 1, 1964), if the aggregate of the monthly average fair market values of the stock subject to the option for the 12 consecutive calendar months before the date of the modification, extension, or renewal, divided by 12, is an amount less than 80 percent of the fair market value of such stock on the date of the original granting of the option or the date of the making of any intervening modification, extension, or renewal, whichever is the highest.

(3) The term "modification" means any change in the terms of the option which gives the employee additional benefits under the option, but such term shall not include a change in the terms of the option—

(A) Attributable to the issuance or assumption of an option under subdivision (a);

(B) To permit the option to qualify under Sections 17532(b)(6), 17533(b)(9), and 17534(b)(2); or

(C) In the case of an option not immediately exercisable in full, to accelerate the time at which the option may be exercised.

If a restricted stock option is exercisable after the expiration of 10 years from the date such option is granted, subparagraph (B) shall not apply unless the terms of the option are also changed to make it not exercisable after the expiration of such period.

(i) For purposes of this article, if the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval.

SEC. 291. Section 17599 of the Revenue and Taxation Code is amended to read:

17599. (a) In the case of a taxpayer engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subdivision (b)) for such activity at the close of the taxable year. Any loss from such activity not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year.

(b) (1) For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

(A) The amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

(B) Amounts borrowed with respect to such activity (as determined under paragraph (2)).

(2) For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he—

(A) Is personally liable for the repayment of such amounts, or

(B) Has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer's interest in such property).

No property shall be taken into account as security if such property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

(3) For purposes of subparagraph (B) of paragraph (1), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who—

(A) Has an interest (other than an interest as a creditor) in such activity, or

(B) Has a relationship to the taxpayer specified within any one of the paragraphs of Section 17288.

(4) Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss

agreements, or other similar arrangements.

(5) If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considerd to be at risk (within the meaning of subdivision (b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subdivision (a)) is allowable as a deduction.

(c) (1) This section applies to any taxpayer engaged in the activity of—

(A) Holding, producing, or distributing motion picture films or video tapes,

(B) Farming (as defined in Section 17599.1(e)),

(C) Leasing any Section 18211 property (as defined in paragraph (3) of subdivision (a) of Section 18211),

(D) Exploring for, or exploiting, oil and gas resources as a trade or business or for the production of income, or

(E) Exploring for, or exploiting, geothermal deposits (as defined in Section 17686.1).

(2) For purposes of this section, a taxpayer's activity with respect to each—

(A) Film or video tape,

(B) Section 18211 property which is leased or held for leasing,

(C) Farm,

(D) Oil and gas property (as defined under Section 614 of the Internal Revenue Code of 1954), or

(E) Geothermal property (as determined under Section 614 of the Internal Revenue Code of 1954),

shall be treated as a separate activity. A partner's interest in a partnership shall be treated as a single activity to the extent that the partnership is engaged in activities described in any subparagraph of this paragraph.

(3) (A) In the case of taxable years beginning after December 31, 1978, this section also applies to each activity—

(i) Engaged in by the taxpayer in carrying on a trade or business or for the production of income, and

(ii) Which is not described in paragraph (1).

(B) Except as provided in subparagraph (C), for purposes of this section, activities described in subparagraph (A) which constitute a trade or business shall be treated as one activity if—

(i) The taxpayer actively participates in the management of such trade or business, or

(ii) Such trade or business is carried on by a partnership and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of the trade or business.

(C) The Franchise Tax Board shall prescribe which activities described in subparagraph (A) shall be aggregated or treated as separate activities.

(D) In the case of activities described in subparagraph (A), the

holding of real property (other than mineral property) shall be treated as a separate activity, and subdivision (a) shall not apply to losses from such activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property.

(E) In the case of an activity described in subparagraph (A), subdivision (b) (3) shall apply only to the extent prescribed by the Franchise Tax Board.

(d) For purposes of this section, the term "loss" means the excess of the deductions allowable under this part for the taxable year (determined without regard to the first sentence of subdivision (a)) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from such activity.

(e) Except as provided in paragraphs (1) and (2), this section shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1976. For purposes of this section, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period.

(1) (A) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to—

(i) Deductions for depreciation or amortization with respect to property the principal production of which began before January 1, 1977, and for the purchase of which there was on January 1, 1977, and at all times thereafter a binding contract, and

(ii) Deductions attributable to producing or distributing property the principal production of which began before January 1, 1977.

(B) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1976, if—

(i) On December 31, 1976, there was an agreement with the director or a principal motion picture star, or on or before December 31, 1976, there had been expended (or committed to the production) an amount not less than the lower of one hundred thousand dollars ($100,000) or 10 percent of the estimated costs of producing the film, and

(ii) The production takes place in the United States. Subparagraph (A) shall apply only to taxpayers who held their interests on December 31, 1976. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1976.

(2) (A) In the case of any activity described in subparagraph (C) of paragraph (1) of subdivision (c), this section shall not apply with respect to—

(i) Leases entered into before January 1, 1977, and

(ii) Leases where the property was ordered by the lessor or lessee before January 1, 1977.

(B) Subparagraph (A) shall apply only to taxpayers who held their interest in the property on December 31, 1976.

(f) (1) If zero exceeds the amount for which the taxpayer is at risk in any activity at the close of any taxable year—

(A) The taxpayer shall include in his gross income for such taxable year (as income from such activity) an amount equal to such excess, and

(B) An amount equal to the amount so included in gross income shall be treated as a deduction allocable to such activity for the first succeeding taxable year.

(2) The excess referred to in paragraph (1) shall not exceed—

(A) The aggregate amount of the reductions required by subsection (b) (5) with respect to the activity for all prior taxable years beginning after December 31, 1978, reduced by

(B) The amounts previously included in gross income with respect to such activity under this subsection.

(g) The amendments made to this section by the 1979–80 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1978.

(h) If the amount for which the taxpayer is at risk in any activity as of the close of the taxpayer's last taxable year beginning before January 1, 1979, is less than zero, subdivision (f) shall be applied with respect to such activity by substituting such negative amount for zero.

SEC. 292. Section 18191 of the Revenue and Taxation Code is amended to read:

18191. (a) (1) Gain or loss attributable to the sale or exchange of, or loss attributable to failure to exercise, an option to buy or sell property shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the option relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by him).

(2) For purposes of paragraph (1), if loss is attributable to failure to exercise an option, the option shall be deemed to have been sold or exchanged on the day it expired.

(3) This subdivision shall not apply to—

(A) An option which constitutes property described in paragraph (1) of Section 18161;

(B) In the case of gain attributable to the sale or exchange of an option, any income derived in connection with such option which, without regard to this subdivision, is treated as other than gain from the sale or exchange of a capital asset; and

(C) A loss attributable to failure to exercise an option described in Section 18188.

(b) (1) In the case of the grantor of the option, gain or loss from any closing transaction with respect to, and gain on lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held for the same period as the property to which the option relates.

(2) For purposes of this subdivision—

(A) The term "closing transaction" means any termination of the taxpayer's obligation under an option in property other than through the exercise or lapse of the option.

(B) The term "property" means stocks and securities (including stocks and securities dealt with on a "when issued" basis), commodities, and commodity futures.

(3) This subdivision shall not apply to any option granted in the ordinary course of the taxpayer's trade or business of granting options.

(c) The amendments made in this section shall apply to options granted after December 31, 1976.

SEC. 293. Section 18568.6 of the Revenue and Taxation Code is amended and renumbered to read:

18586.6. (a) In the case of any tax imposed by this part with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

(A) The date which is five years after the date on which the partnership return of the federally registered partnership for the partnership taxable year in which the item arose was filed (or later, if the date prescribed for filing the return), or

(B) If the name or address of such person does not appear on the partnership return, the date which is one year after the date on which such information is furnished to the Franchise Tax Board in such manner and at such place as he may prescribe by regulations.

(b) For purposes of this section, the term "partnership item" means—

(1) Any item required to be taken into account for the partnership taxable year under any provision of subchapter K of Chapter 1 of Title 26 of the Internal Revenue Code of 1954 to the extent that regulations prescribed by the Franchise Tax Board provide that for purposes of this part such item is more appropriately determined at the partnership level than at the partner level and

(2) Any other item to the extent affected by an item described in paragraph (1).

(c) The extensions referred to in subsection (c) (4) of Section 6501 of the Internal Revenue Code of 1954, insofar as they relate to partnership items, may, with respect to any person, be consented to—

(1) Except to the extent the Franchise Tax Board is otherwise notified by the partnership, by a general partner of the partnership, or

(2) By any person authorized to do so by the partnership in writing.

(d) For purposes of this section, the term "federally registered partnership" means, with respect to any partnership taxable year, any partnership—

(A) Interests in which have been offered for sale at any time

during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or

(B) Which, at any time during such taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission which relate to the protection of investors in the partnership.

(e) This section shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978.

SEC. 294. Section 19057 of the Revenue and Taxation Code is amended to read:

19057. (a) Except as provided in subdivision (b), at the expiration of 90 days from the mailing of the notice, the Franchise Tax Board's action upon the claim is final unless within the 90-day period the taxpayer appeals in writing from the action of the Franchise Tax Board to the board.

(b) If within the period set forth in Section 19083 for filing a suit for refund the Franchise Tax Board receives information which it determines clearly establishes that a disallowed claim should have been allowed, in whole or in part, the Franchise Tax Board shall credit the amount of the overpayment against any taxes due from the taxpayer under this part and the balance shall be refunded to the taxpayer.

SEC. 295. Section 24989 of the Revenue and Taxation Code is amended to read:

24989. (a) If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of a contract for the services of an athlete, the basis of such contract in the hands of the transferee shall not exceed the sum of—

(1) The adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

(2) The gain (if any) recognized by the transferor on the transfer of such contract.

For purposes of this section, gain realized by the transferor on the transfer of such contract, but not recognized by reason of Section 24512, shall be treated as recognized to the extent recognized by the transferor's shareholders.

(b) Subdivision (a) shall not apply—

(1) To an exchange described in Section 24941 (relating to exchange of property held for productive use or investment), and

(2) To property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of Section 18044).

(c) Under regulations prescribed by the Franchise Tax Board, the transferor shall, at the times and in the manner provided in such regulations, furnish to the Franchise Tax Board and to the transferee the following information:

(1) The amount which the transferor believes to be the adjusted

basis referred to in paragraph (1) of subdivision (a), and

(2) The amount which the transferor believes to be the gain referred to in paragraph (2) of subdivision (a), and

(3) Any subsequent modification of either such amount.

To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

(d) In the case of any sale or exchange described in subdivision (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Franchise Tax Board that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of less than 50 percent of the consideration to contracts for the services of athletes is a proper allocation.

(e) This section shall apply to sales or exchanges of franchises after December 31, 1976, in income years ending after the enactment of this section.

SEC. 296. Section 41051 of the Revenue and Taxation Code is amended to read:

41051. The surcharges imposed by this part and the amounts thereof required to be collected are due quarterly, and the amount of surcharge collected in one calendar quarter by the service supplier shall be remitted to the board no later than 60 days after the close of a calendar quarter.

SEC. 297. Section 41070 of the Revenue and Taxation Code is amended to read:

41070. If the board is not satisfied with return or returns of the surcharge or the amount of surcharge required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession, one or more deficiency determinations may be made of the amount payable for one or for more than one period.

SEC. 298. Section 199.7 of the Streets and Highways Code is amended to read:

199.7. (a) All funds allocated for exclusive public mass transit guideway construction purposes pursuant to Section 199.6 in the County of Los Angeles shall be retained in the State Highway Account in the State Transportation Fund until such time as such funds are formally requested by the Los Angeles County Transportation Commission for expenditure and all the requirements of this section are complied with. A maximum of three fiscal years of such funds may be retained under this subdivision and the retention of such funds shall be based upon the state transportation improvement program adopted pursuant to Section 14529 of the Government Code.

(b) The funds shall not be made available by the California Transportation Commission for construction under this section

unless:

(1) The Los Angeles County Transportation Commission has approved a claim for funds and the project is included in its adopted transportation improvement program.

(2) The California Transportation Commission has approved a claim for funds filed pursuant to Section 199.

(3) The local agencies contribute funds available to them, including those allocated to them pursuant to Section 99314.5, but excluding other state and federal funds, for the construction of the project in an amount equal to at least 5 percent of the cost thereof. Funds contributed toward purchase of rolling stock shall be deemed eligible as part of the local commitment required under this paragraph.

(4) The requirement of paragraph (3) shall not apply to any project to which the California Transportation Commission has allocated funds prior to March 1, 1980.

(5) Federal financial assistance shall be sought for all projects to be constructed under this section. In the event that federal participation in a project is less than 50 percent of construction costs, the Los Angeles County Transportation Commission shall report that fact to the California Transportation Commission, which shall grant authorization to proceed with the project if it finds that the Los Angeles County Transportation Commission took all steps to secure the maximum amount of federal funds for the project.

(c) The Los Angeles County Transportation Commission shall take all steps necessary to pursue a special assessment district or other method of value added tax to fund the capital or operating requirements for exclusive public mass transit guideways in Los Angeles County. At least 180 days prior to any action by the California Transportation Commission approving expenditure of state funds under this section for construction, the Legislature shall receive a report from the Los Angeles County Transportation Commission with respect to the feasibility of establishing a special assessment district or other local taxing method to fund the local capital and operating costs of such a system. The report shall describe the steps taken by the Los Angeles County Transportation Commission to pursue such financing and make recommendations to the Legislature on any necessary changes in state law with respect to such subject.

(d) Subdivision (c) shall not apply to approval of funds for planning and design or to projects where special assessment district or other value added tax financing methods are already part of the capital or operating financing plan for the project.

SEC. 299. Section 199.8 of the Streets and Highways Code is amended to read:

199.8. The California Transportation Commission shall do all of the following prior to approving the use of funds allocated pursuant to Section 199.7 for an exclusive public mass transit guideway system in the County of Los Angeles generally known as the Regional Core

Rapid Transit Line:

(a) Hold not less than two public hearings, within 90 days after September 22, 1979, at separate locations in the vicinity of two or more distinct guideway routes analyzed by the Southern California Rapid Transit District during the alternatives analysis phase of the guideway system project, on the following aspects of the project:

(1) The public hearing process used by the district was open and fair; all parties with a significant economic, social, or environmental interest had access to the decisionmaking process in accordance with Section 1610 of Title 49 of the United States Code.

(2) The final decision of the Los Angeles County Transportation Commission regarding the choice of a guideway route was based upon information about the community's transit needs which is verified to be relevant, accurate, and complete.

(b) Make findings on the aspects of the project set forth in subdivision (a), and submit a report on its findings to the Legislature within 120 days after September 22, 1979.

If the California Transportation Commission finds paragraph (1) or (2) of subdivision (a) to not be the case, the California Transportation Commission shall disapprove the use of funds allocated pursuant to Section 199.7.

SEC. 300. Section 1280 of the Unemployment Insurance Code, as amended by Section 10 of Chapter 1053 of the Statutes of 1979, is amended to read:

1280. (a) An individual's weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A which contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

A Amount of wages in highest quarter	B Weekly benefit amount
$225.00– 688.99	30
689.00– 714.99	31
715.00– 740.99	32
741.00– 766.99	33
767.00– 792.99	34
793.00– 818.99	35
819.00– 844.99	36
845.00– 870.99	37
871.00– 896.99	38
897.00– 922.99	39
923.00– 961.99	40
962.00– 987.99	41
988.00–1,013.99	42
1,014.00–1,039.99	43
1,040.00–1,065.99	44
1,066.00–1,091.99	45

1,092.00–1,130.99	46
1,131.00–1,156.99	47
1,157.00–1,182.99	48
1,183.00–1,208.99	49
1,209.00–1,247.99	50
1,248.00–1,273.99	51
1,274.00–1,299.99	52
1,300.00–1,338.99	53
1,339.00–1,364.99	54
1,365.00–1,390.99	55
1,391.00–1,429.99	56
1,430.00–1,455.99	57
1,456.00–1,494.99	58
1,495.00–1,520.99	59
1,521.00–1,559.99	60
1,560.00–1,585.99	61
1,586.00–1,624.99	62
1,625.00–1,650.99	63
1,651.00–1,689.99	64
1,690.00–1,728.99	65
1,729.00–1,754.99	66
1,755.00–1,793.99	67
1,794.00–1,832.99	68
1,833.00–1,858.99	69
1,859.00–1,897.99	70
1,898.00–1,936.99	71
1,937.00–1,975.99	72
1,976.00–2,001.99	73
2,002.00–2,040.99	74
2,041.00–2,079.99	75
2,080.00–2,118.99	76
2,119.00–2,157.99	77
2,158.00–2,196.99	78
2,197.00–2,235.99	79
2,236.00–2,274.99	80
2,275.00–2,313.99	81
2,314.00–2,352.99	82
2,353.00–2,391.99	83
2,392.00–2,430.99	84
2,431.00–2,469.99	85
2,470.00–2,521.99	86
2,522.00–2,560.99	87
2,561.00–2,599.99	88
2,600.00–2,638.99	89
2,639.00–2,690.99	90
2,691.00–2,729.99	91
2,730.00–2,768.99	92
2,769.00–2,820.99	93
2,821.00–2,859.99	94

2,860.00–2,911.99	95
2,912.00–2,950.99	96
2,951.00–3,002.99	97
3,003.00–3,041.99	98
3,042.00–3,093.99	99
3,094.00–3,145.99	100
3,146.00–3,197.99	101
3,198.00–3,236.99	102
3,237.00–3,288.99	103
3,289.00–3,340.99	104
3,341.00–3,392.99	105
3,393.00–3,444.99	106
3,445.00–3,496.99	107
3,497.00–3,548.99	108
3,549.00–3,600.99	109
3,601.00–3,652.99	110
3,653.00–3,704.99	111
3,705.00–3,756.99	112
3,757.00–3,821.99	113
3,822.00–3,873.99	114
3,874.00–3,925.99	115
3,926.00–3,990.99	116
3,991.00–4,042.99	117
4,043.00–4,107.99	118
4,108.00–4,159.99	119
4,160.00 and over	120

(b) This section shall apply to new claims filed with an effective date beginning on or after January 1, 1980, and prior to May 1, 1981.

(c) This section shall remain in effect only until May 1, 1981, and as of such date is repealed.

SEC. 301. Section 1326.5 of the Unemployment Insurance Code is repealed.

SEC. 302. Section 1326.6 of the Unemployment Insurance Code is repealed.

SEC. 303. Section 1585 of the Unemployment Insurance Code is amended to read:

1585. There is in the State Treasury a special fund known as the Employment Development Department Contingent Fund. The Employment Development Department Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division, except as provided in Article 6 (commencing with Section 821) of Chapter 3 and Article 7 (commencing with Section 841) of Chapter 3.

(b) All penalties collected under this division, except as provided in Sections 1958 and 3654.2, and in Article 6 (commencing with

Section 821) of Chapter 3 and Article 7 (commencing with Section 841) of Chapter 3.

(c) Notwithstanding any other provision of law, all penalties and interest collected by the department pursuant to the provisions of the Revenue and Taxation Code relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.

SEC. 304. Section 3701 of the Unemployment Insurance Code is amended to read:

3701. (a) Any employer who is entitled under Section 3654 to notice of the filing of a primary claim or additional claim and who, within 10 days after mailing of the notice, submits to the department any facts within its possession disclosing whether the exhaustee left the most recent employment with that employer voluntarily and without good cause or was discharged from his or her employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit these facts may be extended by the director for good cause.

(b) The department shall consider these facts together with any information in its possession and promptly notify the employer of its ruling as to the cause of the termination of the exhaustee's most recent employment. The employer may appeal from a ruling or reconsidered ruling to a referee within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to a referee is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which relates to a determination which is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of its determination.

(c) Rulings under this section shall have the effect prescribed by Section 1032.

SEC. 305. Section 223 of the Vehicle Code is amended to read:

223. Any reference in this code to "automobile driver training" shall be deemed to refer to the laboratory phase of driver education described by Section 51852 of the Education Code.

SEC. 306. Section 2512 of the Vehicle Code is amended to read:

2512. (a) The commissioner, after consultation with, and

pursuant to the recommendations of, the State Department of Health Services and the Department of Motor Vehicles, shall adopt and enforce such reasonable regulations as he determines are necessary for the public health and safety regarding the operation, equipment, and certification of drivers of all ambulances used for emergency services. Such regulations shall not conflict with standards established by the State Department of Health Services pursuant to subdivision (g) of Section 1760 of the Health and Safety Code. The commissioner shall exempt, upon request of the county board of supervisors that such exemption is necessary for public health and safety, noncommercial ambulances operated within the county from such regulations adopted under this section as are specified in the board of supervisors' request. The State Department of Health Services shall be notified by the county boards of supervisors of any such exemptions. The commissioner may, with the consent of the Director of Motor Vehicles, authorize the director to administer any regulations adopted pursuant to this section which relate to the issuance, suspension, or revocation of ambulance drivers' certificates and, in such administration, to exercise the powers granted to the commissioner by this section.

(b) This section shall not preclude the adoption of more restrictive regulations by local authorities, but it is the intent of the Legislature that regulations adopted by the commissioner pursuant to this section shall be the minimum necessary to protect public health and safety, and shall not be so restrictive as to preclude compliance by ambulances operated in sparsely populated areas. The provisions of this subdivision shall not relieve the owner or driver of any ambulance from compliance with Section 21055.

SEC. 307. Section 9250.5 of the Vehicle Code is amended to read:

9250.5. (a) In addition to those fees specified in this code and the Revenue and Taxation Code, there shall be paid the following fee for the original registration of a gasoline-powered vehicle, other than a motorcycle, of a 1975 or later model year, first sold and registered in California, having a compression ratio of more than 8.5 to 1:

For a vehicle having a compression ratio of:	
More than 8.5 to 1 but under 9.0 to 1	$50
9.0 to 1 or more but under 9.5 to 1	100
9.5 to 1 or more but under 10.0 to 1	150
10.0 to 1 or more but under 10.5 to 1	200
10.5 to 1 or more but under 11.0 to 1	250
11 to 1 or more	300

(b) Subdivision (a) shall not apply to such a motor vehicle whose emission of pollutants is within the allowable limits established by law or regulation.

(c) All fees received by the department pursuant to this section shall be deposited in the Air Pollution Control Fund in the State Treasury. All money deposited in the fund pursuant to this section

shall augment the money appropriated by Section 43015 of the Health and Safety Code to finance studies and projects designed to reduce or eliminate motor-vehicle-caused air pollution.

SEC. 308. Section 11613 of the Vehicle Code is amended to read:

11613. (a) The department, after notice and hearing, may suspend or revoke the license issued to a lessor-retailer upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has committed any of following acts:

(1) Filed an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or knowingly made any false statement or knowingly concealed any material fact, in the application for such license.

(2) Has used a false or fictitious name, knowingly made any false statement or knowingly concealed any material fact in any application for the registration of a vehicle, or otherwise committed a fraud in such application.

(3) Has knowingly purchased, sold or otherwise acquired or disposed of a stolen motor vehicle.

(4) Has violated any of the terms and conditions of Division 3 (commencing with Section 4000) or a rule or regulation adopted pursuant thereto under the authority of Section 1651.

(5) Has violated any of the terms and conditions of Division 4 (commencing with Section 10500) or the rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(6) Has violated any of the provisions of this chapter or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(7) Has violated any of the terms or provisions of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code or the rules and regulations adopted pursuant thereto under the authority of Section 1651.

(8) Has submitted a check, draft or money order to the department for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

(9) Has caused any person to suffer any loss or damage by reason of any fraud or deceit practiced on him or fraudulent representations made to such person in the sale of a vehicle or parts or accessories thereof.

For the purposes of this subdivision, the term "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code. In addition, the terms "fraud" and "deceit" include, but are not limited to, the following: a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; an intentional failure to disclose a material fact; any act falling within the provisions of Section 484 of the Penal Code.

(b) Any of the causes specified in Section 11604 as a cause for refusal to issue a license to a lessor-retailer applicant shall be cause to suspend or revoke a license and certificate issued to a lessor-retailer.

(c) Every hearing as provided for in this section shall be pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 309. Section 11816 of the Vehicle Code is repealed.

SEC. 310. Section 11824 of the Vehicle Code is amended to read:

11824. The suspension, expiration, or cancellation of a vehicle salesman's license provided for in this article shall not prevent the filing of an accusation for the revocation or suspension of the suspended, expired, or canceled license as provided in Section 11806, and the department's decision that such license should be suspended or revoked. Such determination may be considered in granting or refusing to grant any subsequent license authorized by this division to such licensee.

SEC. 311. Section 12805 of the Vehicle Code is amended to read:

12805. The department shall not issue a driver's license to, or renew a driver's license of, any person:

(a) Who is not of legal age to receive such license.

(b) Who, because of excessive and continuous use of alcoholic liquors, is incapable of safely operating a motor vehicle, or who is addicted to the use of, or is an habitual user of, any drug to a degree that the person is rendered incapable of safely operating a motor vehicle.

(c) Who has a disorder characterized by lapses of consciousness.

(d) Who is unable as shown by examination to understand traffic signs or signals or who does not have a reasonable knowledge of the provisions of this code governing the operations of vehicles upon the highways.

(e) When it is determined, by examination or other evidence, that such person is unable to safely operate a motor vehicle upon a highway (1) because of experiencing, within the last three years, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses or (2) because of any other disability, disease, or disorder or (3) because of lack of skill.

(f) Who is unable to read and understand simple English used in highway traffic and directional signs. The provisions of this subdivision shall not apply to any person holding an operator's or chauffeur's license issued by this state and valid on September 11, 1957.

(g) Who holds a valid driver's license issued by a foreign jurisdiction unless he surrenders that license to the department

(h) Who has ever held, or is the holder of, a license to drive issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and such license has been suspended by reason, in whole or in part, of a

conviction of a traffic violation until the suspension period has terminated, except as provided in subdivision (c) of Section 12806.

(i) Who has ever held, or is the holder of a license to drive issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and such license has been revoked by reason, in whole or in part, of a conviction of a traffic violation until the revocation has been terminated or after the expiration of one year from the date the license was revoked, whichever occurs first, except as provided in subdivision (c) of Section 12806.

SEC. 312. Section 22406 of the Vehicle Code is amended to read:

22406. No person shall drive any of the following vehicles on a highway at a speed in excess of 55 miles per hour:

(a) A motortruck or truck tractor having three or more axles or any motortruck or truck tractor drawing any other vehicle.

(b) A passenger vehicle or bus drawing any other vehicle.

(c) A schoolbus transporting any school pupil.

(d) A farm labor vehicle when transporting passengers.

(e) A vehicle transporting explosives.

SEC. 313. Section 27465 of the Vehicle Code is amended to read:

27465. (a) No dealer or person holding a retail seller's permit shall sell, offer for sale, expose for sale, or install on a vehicle axle for use on a highway, a pneumatic tire when the tire is so worn that less than one thirty-second (1/32) of an inch tread depth remains in any two adjacent grooves at any location on the tire. This subdivision shall not apply to any person who installs on a vehicle, as part of an emergency service rendered to a disabled vehicle upon a highway, a spare tire with which such disabled vehicle was equipped.

(b) No person shall use on a highway a pneumatic tire on a vehicle axle when the tire is so worn that less than one thirty-second (1/32) of an inch tread depth remains in any two adjacent grooves at any location on the tire, except when temporarily installed on a disabled vehicle as specified in subdivision (a).

(c) The measurement of tread depth shall not be made where tie bars, humps, or fillets are located.

(d) The requirements of this section shall not apply to implements of husbandry.

(e) The department, if it determines that such action is appropriate and in keeping with reasonable safety requirements, may adopt regulations establishing more stringent tread depth requirements than those specified in this section for those vehicles defined in Sections 322 and 545, and may adopt regulations establishing tread depth requirements different from those specified in this section for those vehicles listed in Section 34500.

SEC. 314. Section 27603 of the Vehicle Code is amended to read:

27603. When a motor vehicle formerly used as a schoolbus is sold to any person and is used exclusively for purposes other than the transportation of pupils pursuant to Article 3 (commencing with Section 39830) of Chapter 5 of Part 23 of the Education Code, it shall

be painted by the purchaser a color different than that prescribed by the Department of the California Highway Patrol for schoolbuses before it is operated on any street or highway other than to have the vehicle painted or moved to a place of storage.

The provisions of this section shall not apply where the ownership of a schoolbus is transferred to a nonprofit organization under a contractual arrangement under which the ownership is required to be retransferred to the original owner within 90 days of the date of the original transfer.

SEC. 315. Section 31401 of the Vehicle Code is amended to read:

31401. (a) The department shall adopt regulations designed to promote the safe operation of farm labor vehicles described in Section 322, including, but not limited to, vehicular design, equipment, passenger safety, and seating.

(b) The department shall inspect every farm labor vehicle described in Section 322 at least once annually to ascertain whether its construction, design, and equipment comply with all provisions of law. No person shall drive any farm labor vehicle described in Section 322 unless there is displayed therein a certificate issued by the department stating that on a stated day, which shall be within 13 months of the date of operation, an authorized employee of the department inspected the vehicle and found on the date of inspection the vehicle complied with applicable regulations relating to construction, design, and equipment. The commissioner shall provide by rule or regulation for the issuance and display of distinctive inspection certificates.

(c) The department may inspect any vehicle subject to these regulations in maintenance facilities, terminals, labor camps, or other private property to insure compliance with the provisions of this code and regulations adopted pursuant to this section.

(d) It is unlawful to violate any provision of these regulations.

SEC. 316. Section 31402 of the Vehicle Code is amended to read:

31402. No person shall operate any farm labor vehicle, described in Section 322, except to take the vehicle unladen to a repair shop, after notice by the department to the owner that the vehicle is in an unsafe condition or is not equipped as required by this code, or any regulations adopted thereunder, until the vehicle and its equipment have been made to conform with the requirements of this code, or any regulations adopted thereunder, and approved by the department.

SEC. 317. Section 35720 of the Vehicle Code is amended to read:

35720. No ordinance adopted pursuant to Section 35717 shall be effective with respect to:

(a) Any vehicle which is subject to the provisions of Article 2 (commencing with Section 1031) of Chapter 5 of Part 1 of Division 1 of the Public Utilities Code or any farm labor vehicle.

(b) Any street, road or highway which is not under the exclusive jurisdiction of the board of supervisors enacting such ordinance, except as otherwise provided in Section 35719, or, in the case of any

state highway, until such proposed ordinance has been submitted by the board of supervisors to and approved in writing by the Department of Transportation. In submitting such a proposed ordinance to the department for approval, the board of supervisors shall designate therein, an alternate route or routes for the use of such vehicles which shall remain unrestricted by any local regulation as to weight limits or types of vehicles so long as the ordinance proposed shall remain in effect. The approval of such proposed ordinances by the Department of Transportation shall constitute an approval by the department of such alternate route or routes so designated.

(c) Any commercial vehicle coming from an unrestricted street, road or highway having ingress and egress by direct route to and from such restricted streets, roads, and highways when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted streets, roads or highways or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted street, road or highway for which a building permit, if required, has previously been obtained therefor, or vehicles, machinery, or construction equipment used in connection with, the construction, repair or maintenance of such restricted street or public work projects located thereon.

(d) Any vehicle operated as an incident to any industrial, commercial, or agricultural enterprise conducted upon any such street, road, or highway.

(e) Any vehicle owned, operated, controlled, or used by a public utility or licensed contractor in connection with the construction, installation, operation, maintenance, or repair of any public utility facilities or public works projects.

(f) The operation of ambulances or hearses.

SEC. 318. Section 42050 of the Vehicle Code, as amended by Section 5 of Chapter 1148 of the Statutes of 1979, is amended to read:

42050. To reimburse the General Fund for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 41304 of the Education Code, and to augment the Corrections Training Fund and the Peace Officers' Training Fund to the extent designated in Section 42052, there shall be levied a penalty assessment on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of a county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code, in the following amounts:

(a) Where a fine is imposed	$5 for each $20 of fine, or fraction thereof.

(b) If sentence is suspended	$5 if jail only, otherwise based on the amount of the fine levied, as in subdivision (a).
(c) If bail is forfeited	$5 for each $20 of bail, or fraction thereof.
(d) Where multiple offenses are involved	The penalty assessment shall be based on the total fine or bail for all offenses, or $5 for each jail sentence.

When a fine is suspended, in whole or in part, the penalty assessment shall be reduced in proportion to the suspension

SEC. 318.5. Section 42050 of the Vehicle Code, as amended by Section 8 of Chapter 1148 of the Statutes of 1979, is amended to read:

42050. To reimburse the General Fund for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 41304 of the Education Code, and to augment the Peace Officers' Training Fund to the extent designated in Section 42052, there shall be levied a penalty assessment on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of a county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code, in the following amounts:

(a) Where a fine is imposed	$5 for each $20 of fine, or fraction thereof.
(b) If sentence is suspended	$5 if jail only, otherwise based on the amount of the fine levied, as in subdivision (a).
(c) If bail is forfeited	$5 for each $20 of bail, or fraction thereof.
(d) Where multiple offenses are involved	The penalty assessment shall be based on the total fine or bail for all offenses, or $5 for each jail sentence.

When a fine is suspended, in whole or in part, the penalty assessment shall be reduced in proportion to the suspension.

SEC. 319. Section 13370 of the Water Code is amended to read:

13370. The Legislature finds and declares that since the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), as amended,

provides for permit systems to regulate the discharge of pollutants and dredged or fill material to the navigable waters of the United States and provides that permits may be issued by states which are authorized to implement the provisions of such act, it is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this division, to enact the provisions of this chapter in order to authorize the state to implement the provisions of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto; provided, however, that the requirements of this chapter relating to the discharge of dredged or fill material shall be applicable only when the state has an approved permit program for the discharge of dredged and fill material in accordance with the provisions of the Federal Water Pollution Control Act; and provided further, that the state board shall request federal funding under the Federal Water Pollution Control Act for the purpose of carrying out its responsibilities under this program.

SEC. 320. Section 13903 of the Water Code is amended to read:

13903. Each regional board shall notify each affected city or county, the State Department of Health Services and the State Department of Boating and Waterways of areas of inadequate regulation by ordinance of discharges of waste from houseboats and shall recommend provisions necessary to control the discharges of waste from houseboats into the waters.

SEC. 321. Section 13904 of the Water Code is amended to read:

13904. Each such affected city or county shall within 120 days of receipt of the notice from the regional board, adopt an ordinance for control of discharges of waste from houseboats within the area for which notice was given by the board. A copy of such ordinance shall be sent to the regional board on its adoption and the regional board shall transmit such ordinance to the state board, the State Department of Health Services and the State Department of Boating and Waterways.

SEC. 322. Section 36255 of the Water Code is amended to read:

36255. At any time not later than the hour set for hearing objections to the proposed plan of works and the issuance of general obligation bonds therefor, any owner of property liable to be assessed therefor may make written protest. Such protest shall be in writing, shall contain a description of the property in which each signer has an interest, sufficient to identify the same and if the signers are not shown on the last equalized assessment roll as the owners of such property, such protest shall contain or be accompanied by written evidence that such signers are the owners of such property. All such protests shall be delivered to the secretary of the district.

SEC. 323. Section 75165.3 of the Water Code is amended to read:

75165.3. At the time fixed for the hearing, the board of directors shall hear all persons appearing for and against the matter, and at the

conclusion of the hearing the board shall determine whether or not it is for the best interests of the district and of the special improvement district that the latter be governed by a board of trustees.

SEC. 324. Section 653 of the Welfare and Institutions Code is amended to read:

653. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, such application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 300, 601, or 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make such investigation as he deems necessary to determine whether proceedings in the juvenile court should be commenced. If the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person described in Section 602 to be a ward of the juvenile court, the probation officer shall cause the affidavit to be taken to the prosecuting attorney. The prosecuting attorney shall within his discretionary power institute proceedings in accordance with his role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code.

If the probation officer does not take action under Section 654 and does not file a petition in juvenile court within 21 court days after such application, or in the case of an affidavit alleging that a minor committed an offense described in Section 602 or alleging that a minor is within Section 602, does not cause the affidavit to be taken to the prosecuting attorney within 21 court days after such application, he shall endorse upon the affidavit of applicant his decision not to proceed further and his reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him under this section. The probation officer shall retain the affidavit and his indorsement thereon for a period of 30 days after such notice to applicant.

SEC. 325. Section 1776 of the Welfare and Institutions Code is amended to read:

1776. Whenever an alleged parole violator is detained in a county detention facility pursuant to a valid exercise of the powers of the Youth Authority as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the Youth Authority and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority. Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be

first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose juvenile hall or jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 210 of this code.

"Costs of such detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

SEC. 326. Section 1813 of the Welfare and Institutions Code is amended to read:

1813. (a) The amount that may be paid to any county receiving funding under this article may not exceed two dollars and fifty-five cents ($2.55) per capita in such county. The county population shall be that certified by the Department of Finance to the State Controller of July 1 of the funding year; except that, for the purposes of this section, no county shall be considered to have a population of less than 20,000 persons.

(b) In lieu of the per capita funding limitation set forth in subdivision (a), a county may elect, as its maximum funding limitation, an amount equal to the total of funds received by such county for fiscal year 1977–78 under former Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5, and for maintenance of juvenile homes, ranches, and camps pursuant to Section 887, as such programs were in effect during fiscal year 1977–78, and for reimbursement of costs imposed for fiscal year 1977–78 by Chapter 1071 of the Statutes of 1976, as claimed and reimbursed pursuant to Chapter 1241 of the Statutes of 1977. Such election shall be made on or before September 15 of the funding year and shall apply retroactively for the entire funding year. In the absence of an election by any county by September 15 of the funding year, any such county shall be deemed to have elected the per capita funding limitation set forth in subdivision (a).

(c) The Director of the Department of Finance shall adjust both the per capita maximum dollar amount as set forth in subdivision (a), and the maximum amount which each county may elect as its maximum funding limitation pursuant to subdivision (b), for the 1979–80 fiscal year, by the percentage increase or decrease in the Consumer Price Index established by the United States Department of Labor and given a weighted average for California by the California Department of Industrial Relations. The adjustment shall use the December 1977 Consumer Price Index as the base.

(d) The provisions of subdivision (c) shall apply only to those counties that meet the following requirements:

Net county costs for correctional services shall not be reduced disproportionately unless to do so will not be detrimental to the safety of the public or to the correctional needs of public offenders.

As used in this subdivision, "net county costs for correctional services" means county expenditures for county correctional services, less revenues received for county correctional services, plus federal revenue sharing funds budgeted or expended for county correctional services. A reduction in net county costs for correctional services shall be deemed to be disproportionate when the ratio, determined by dividing net county costs for correctional services budgeted in the 1978–79 fiscal year by the net county costs for correctional services provided in the 1977–78 fiscal year, is less than the ratio determined by dividing the sum of the following: (1) county property tax revenues for the 1978–79 fiscal year as calculated in paragraph (1) of subdivision (b) of Section 16260 of the Government Code; (2) the dollar amount of a county's obligations relieved pursuant to Sections 33 and 34 of Chapter 292 of the Statutes of 1978 during the 1978–79 fiscal year; and (3) the dollar amount of funds allocated to the county by Chapter 292 of the Statutes of 1978 as calculated in subdivision (d) of Section 16260 of the Government Code and appropriated in Section 16100 of the Government Code, by the sum county revenues derived from property taxation during the 1977–78 fiscal year, including state reimbursements for homeowners' and business inventory exemptions.

(e) As used in this section, "county correctional services" means:

(1) Juvenile homes, ranches, camps, forestry camps, schools, day care centers, and group homes, to the extent that such facilities are utilized for persons who have been declared wards of the juvenile court pursuant to a finding that they are persons described by Section 602 of the Welfare and Institutions Code.

(2) Adult correctional programs and facilities, including, but not limited to, county jail programs and correctional rehabilitation centers.

(3) Local justice system offender-centered services offered by probation departments.

(4) Any of the services defined in paragraphs (1) and (2) above where financed or purchased by the county through grants, contracts or agreements.

(f) The Legislature hereby declares that a component portion of the per capita sum specified in subdivision (a) is based on the total amount of state-mandated costs pursuant to Chapter 1071 of the Statutes of 1976. The Legislature further declares its intent that, to the extent that the actual amount of such costs for the 1977–78 fiscal year are less than or in excess of eighteen million dollars ($18,000,000), such component portion of the per capita sum as eighteen million dollars ($18,000,000) bears to the total amount appropriated to the Department of the Youth Authority to carry out the purpose of this article during the 1978–79 fiscal year, be increased or decreased by a like percentage with the effect of a consequent increase or decrease in the total per capita sum. The actual amount of state-mandated costs pursuant to Chapter 1071 of the Statutes of 1976 shall be the reimbursements for such costs, as claimed and

reimbursed pursuant to Chapter 1241 of the Statutes of 1977, plus such additional costs as the Department of Finance determines would have been approved for reimbursement pursuant to Chapter 1241 of the Statutes of 1977 had claims been submitted but for which the county secured alternative funding.

(g) On or before January 1, 1979, the per capita sum specified in subdivision (a) shall be further adjusted retroactive to July 1, 1978, using the following method:

(1) The total of the maximum amounts applicable to all those counties who have elected the method set forth in subdivision (b) shall be subtracted from the total amount appropriated to the Department of the Youth Authority to carry out the purposes of this article during the 1978–79 fiscal year.

(2) The remainder shall be divided by the sum of the populations of all counties, as determined for funding year 1978–79 pursuant to subdivision (a), which have not elected the method of maximum payment set forth in subdivision (b). The quotient of the above division shall be the adjusted per capita sum for the funding year 1978–79.

SEC. 327. Section 3054 of the Welfare and Institutions Code is amended to read:

3054. A person committed to the custody of the Director of Corrections pursuant to this article is not required to register pursuant to Article 4 (commencing with Section 11590) of Chapter 10 of Division 10 of the Health and Safety Code.

SEC. 328. Section 3100.6 of the Welfare and Institutions Code is amended to read:

3100.6. Any peace officer or health officer who has reasonable cause to believe that a person is addicted to the use of narcotics or by reason of the repeated use of narcotics is in imminent danger of becoming addicted to their use may take the person, for his best interest and protection, to the county hospital or other suitable medical institution designated by the board of supervisors of the county.

Upon written application of the peace officer or health officer, the physician or superintendent in charge of the designated hospital or institution may admit the person believed to be addicted to the use of narcotics or in imminent danger of becoming addicted to their use. The application shall state the circumstances under which the person's condition was called to the officer's attention, shall state the date, time, and place of taking the person into custody and shall state the facts upon which the officer has reasonable cause to believe that the person is addicted to the use of narcotics or by reason of the repeated use of narcotics is in imminent danger of becoming addicted to their use. The application shall be signed by the officer, and a copy of the application shall be presented to the person prior to his admittance to the hospital or institution.

Within 24 hours of admittance, a physician shall conduct an examination to determine whether the person is addicted to the use

of narcotics or by reason of the repeated use of narcotics is in imminent danger of becoming addicted to their use and may provide the person with medical aid as necessary to ease any symptoms of withdrawal from the use of narcotics.

If, after examination, the physician does not believe that the person is addicted to the use of narcotics or by reason of the repeated use of narcotics is in imminent danger of becoming addicted to their use, he shall immediately report his belief to the physician or superintendent in charge of the hospital or institution, who shall discharge the person immediately.

If, after examination, the physician believes that further examination is necessary to determine whether the person is addicted to the use of narcotics or by reason of the repeated use of narcotics is in imminent danger of addiction to their use, he shall prepare an affidavit which states that he has examined the person and has such belief. The physician or superintendent in charge of the hospital or institution thereupon shall have the power to detain the person for not more than an additional 48 hours for further examination.

If, after such further examination, the physician does not believe that the person is addicted to the use of narcotics or by reason of the repeated use of narcotics is in imminent danger of becoming addicted to their use, he shall immediately report his belief to the physician or superintendent in charge of the hospital or institution, who shall discharge the person immediately.

If, after such examination, or further examination, the physician believes that the person is addicted to the use of narcotics or by reason of the repeated use of narcotics is in imminent danger of becoming addicted to their use, he shall prepare an affidavit which states that he has examined the person and has such belief, and which states the time and date of admission to the hospital or institution and the time and date of the examination and, if appropriate, the further examination. The physician or superintendent in charge of the hospital or institution thereupon shall report such belief to the district attorney, who may petition the superior court for a commitment of the person to the Director of Corrections for confinement in the narcotic detention and rehabilitation facility.

Unless the petition of the district attorney, accompanied by the affidavit of the examining physician, is filed in the superior court within 72 hours after admittance to the hospital or institution, excluding Saturdays, Sundays and judicial holidays, the physician or superintendent in charge shall discharge the person immediately.

No evidence of violations of Sections 11350, 11357, and 11550 of the Health and Safety Code found during the examination authorized by this section shall be admissible in any criminal proceeding against the person.

SEC. 329. Section 3110 of the Welfare and Institutions Code is amended to read:

3110. A person committed to the custody of the Director of

Corrections pursuant to this article is not required to register pursuant to Article 4 (commencing with Section 11590) of Chapter 10 of Division 10 of the Health and Safety Code.

SEC. 330. Section 4446 of the Welfare and Institutions Code is amended to read:

4446. The Director of General Services shall transfer to the Department of Transportation of the State of California under such terms, conditions and restrictions as he deems to be for the best interests of the state, the necessary easements and right-of-way for all purposes of a state highway on the Agnews State Hospital property. The right-of-way shall be across, along and upon the following described property:

All that real property in the County of Santa Clara, State of California, described as:

A portion of that certain 118-acre parcel of land, situate in the Rancho Rincon de Los Esteros, described in the Deed of Trust recorded in Book 687, at page 50, Official Records of Santa Clara County, more particularly described as follows:

Commencing at the northwesterly corner of said Parcel; thence along the Southerly line of the existing State highway in Santa Clara County, Road IV-SCL-113-A, N. 74°49′08″ E., 2018.23 feet; thence N. 14°33′52″ W., 33.00 feet to the center line of said State highway; thence along said center line N. 74°49′08″ E., 1117.32 feet to the general easterly line of said Parcel; thence along last said line S. 15°10′52″ E., 95.00 feet, from a tangent that bears N. 81°39′12″ W., along a curve to the left with a radius of 203.99 feet, through an angle of 76°23′40″, an arc length of 271.99 feet and S. 21°57′08″ W., 68.90 feet to a line parallel with and distant 83.00 feet southerly measured radially from the "A_3" Line of the Department of Public Works Survey for the State freeway in Santa Clara County Road IV-SCL-13-A; thence along said parallel line from a tangent that bears S. 77°03′12″ W., along a curve to the left with a radius of 3917.00 feet, through an angle of 2°14′04″, an arc length of 152.76 feet and S. 74°49′08″ W., 1746.04 feet; thence S. 73°01′07″ W., 704.53 feet to a line parallel with and distant 275.00 feet easterly, at right angles from the general westerly line of aforesaid 118 Acre parcel of land; thence along last said parallel line S. 6°22′52″ E., 250.30 feet; thence S. 9°08′55″ W., 556.89 feet; thence S. 5°26′26″ E., 253.18 feet; thence S. 14°31′51″ E., 176.27 feet to the general Southerly line of said Parcel; thence along said general Southerly line N. 89°37′51″ W., 72.44 feet to the aforesaid general Westerly line of said Parcel; thence along last said line N. 14°31′51″ W., 527.64 feet, and N. 6°22′52″ W., 843.44 feet to the point of commencement.

Containing 17.216 acres, more or less in addition to 0.846 of an acre more or less within the adjoining public way.

This transfer shall be for the purposes of a freeway and the grantor shall release and relinquish to the Department of Transportation any and all abutter's rights of access, appurtenant to the Agnews State Hospital's remaining property, in and to said freeway, over and

across the courses described above with lengths of 152.76 feet, 1746.04 feet, 704.53 feet and 250.30 feet, and over and across the northerly 206.89 feet of the course described above with the length of 556.89 feet.

The bearings and distances used in the above description are on the California Co-ordinate System, Zone 3.

SEC. 331. Section 4461 of the Welfare and Institutions Code is amended to read:

4461. All expenses incurred in returning such persons to other states shall be paid by this state, the person or his relatives, but the expense of returning residents of this state shall be borne by the state making the returns.

The cost and expense incurred in effecting the transportation of such nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of developmentally disabled persons upon vouchers approved by the State Board of Control.

SEC. 332. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records may be disclosed only:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his guardian or conservator must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a masters degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee,

and his parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research. Such rules shall include, but need not be limited to, the requirement that all researchers must sign an oath of confidentiality as follows:

_____
Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____
Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of said attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed must be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 333. Section 5328.6 of the Welfare and Institutions Code is amended to read:

5328.6. When any disclosure of information or records is made as authorized by the provisions of Section 11878 or 11879 of the Health and Safety Code, subdivision (a) or (d) of Section 5328, Sections 5328.1, 5328.3, or 5328.4, the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record: the date and circumstances under which such disclosure was made; the names and relationships to the patient if any, of persons or agencies to whom such disclosure was made; and the specific information disclosed.

SEC. 334. Section 5328.7 of the Welfare and Institutions Code is amended to read:

5328.7. Signed consent forms by a patient for release of any information to which such patient is required to consent under the provisions of Sections 11878 or 11879 of the Health and Safety Code or subdivision (a) or (d) of Section 5328 shall be obtained for each separate use with the use specified, the information to be released, the name of the agency or individual to whom information will be released indicated on the form and the name of the responsible individual who has authorization to release information specified. Any use of this form shall be noted in the patient file. Patients who sign consent forms shall be given a copy of the consent form signed.

SEC. 335. Section 5330 of the Welfare and Institutions Code is

amended to read:

5330. Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him in violation of the provisions of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for the greater of the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

SEC. 336. Section 5359 of the Welfare and Institutions Code is amended to read:

5359. A conservator appointed under this chapter shall find alternative placement for his conservatee within seven days after he is notified by the person in charge of the facility serving the conservatee that the conservatee no longer needs the care or treatment offered by that facility.

If unusual conditions or circumstances preclude alternative placement of the conservatee within seven days, the conservator shall find such placement within 30 days.

If alternative placement cannot be found at the end of the 30-day period the conservator shall confer with the professional person in charge of the facility and they shall then determine the earliest practicable date when such alternative placement may be obtained.

SEC. 337. Section 5652.5 of the Welfare and Institutions Code is amended to read:

5652.5. (a) Psychiatric health facilities, as defined in Section 1250 of the Health and Safety Code, shall only be licensed by the State Department of Health Services subsequent to application by counties, county contract providers, or other organizations pursuant to this part and approval by the State Department of Mental Health.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for such facility and a description of the services to be provided. The local mental health director shall then submit to the governing body such explanation and description in the form of an amendment to the county Short-Doyle plan. The governing body, upon its approval of such amendment, may submit the amendment and approval request to the State Department of Mental Health.

(2) Other organizations that seek to apply for licensure and do not intend to utilize any Short-Doyle funds pursuant to Section 5707 shall

submit their approval requests to the governing body in the county in which the facility is to be located. The governing body shall have 30 days during which to make recommendations on such applications. At any time after such 30-day period, such organizations may then submit their approval requests, along with the governing body's recommendations, if any, to the State Department of Mental Health.

(c) Until such time as the State Department of Health Services adopts regulations for psychiatric health facilties pursuant to Section 1275.1 of the Health and Safety Code, a county, county contract provider, or other organization may apply to the State Department of Mental Health for licensure waiver for existing facilities pursuant to Section 5768. The State Department of Mental Health shall be the lead agency for coordination of the development of criteria by which licensure waiver shall be granted and shall be responsible for the coordination of the process for approval of such waivers.

(d) The State Fire Marshal, the Office of Statewide Health Planning and Development, the State Department of Health Services, and other appropriate state agencies shall cooperate fully with the State Department of Mental Health to assure that the State Department of Mental Health shall approve such licensure waivers not later than 90 days after the submission by a county, county contract provider, or other organization of the amendment to the Short-Doyle plan and request for waiver.

(e) Each psychiatric health facility shall be periodically inspected pursuant to Section 1279 of the Health and Safety Code. In order to assure that quality care is provided in such facilities, the representatives of the State Department of Health Services shall be accompanied by a representative or representatives of the State Department of Mental Health and shall invite representatives of the county mental health program and the county mental health advisory board.

(f) It is the intent of the Legislature that the State Department of Mental Health shall approve psychiatric health facilities only if the average per diem charges or costs of service provided in such facilities are approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital. In utilizing such guidelines, the department shall take into account local conditions affecting such costs or charges.

SEC. 338. Section 5664 of the Welfare and Institutions Code is amended to read:

5664. Each county Short-Doyle plan adopted for each fiscal year for a county or counties in which a state hospital is scheduled to be closed shall contain a complete program, to be developed jointly by the State Department of Mental Health and the county, for absorbing as many of the staff of such hospital into the local mental health programs as may be needed by the county. Such programs shall include a redefinition of occupational positions, if necessary, and a recognition by the counties of licensed psychiatric technicians

for treatment of the mentally disordered, developmentally disabled, drug abusers, and alcoholics.

The Director of Mental Health shall submit all plans for the closure of state hospitals as a report with its budget. Such report shall include·

(a) The land and buildings affected;

(b) The number of patients affected;

(c) Alternative plans for patients presently in such facilities;

(d) Alternative plans for patients who would have been served by such facility assuming it was not closed; and

(e) A joint statement of the impact of such closure by the department and affected local treatment programs.

Such plans may be submitted to the Legislature until April 1 of each budget year. Any plans submitted after that date shall not be considered until the fiscal year following that which is being considered.

Such a plan shall not be placed into effect unless the Legislature specifically approves such plan.

SEC. 339. Section 5752 of the Welfare and Institutions Code is amended to read:

5752. The director shall review each county Short-Doyle plan to determine that·

(a) It complies with the requirements of this division and with the standards adopted under this division;

(b) That the most effective and economical use will be made of available public and private mental health resources in the county or counties;

(c) The three-year plan for community mental health services has been adequately prepared. The director shall insure that careful consideration is given to the most effective and economical alternative forms and patterns of services;

(d) Adequate provisions have been made for review and evaluation of the services provided in the county or counties.

SEC. 340. Section 6000 of the Welfare and Institutions Code is amended to read:

6000. Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or developmentally disabled may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it or, if he is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under

Section 5358 to place his conservatee in a state hospital, by his conservator.

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, conservator, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Mental Health or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place the conservatee in a state hospital the application for the minor shall be made by his conservator.

Any such person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of Mental Health or the State Department of Developmental Services the record of such voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, conservator, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

The State Department of Mental Health or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.

SEC. 341. Section 6509 of the Welfare and Institutions Code is

amended to read:

6509. If the court finds that the person is mentally retarded, and that he is a danger to himself or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any state hospital, any licensed community care facility as defined in Section 1504, or any health facility as defined in Section 1250. The court shall hold a hearing as to the available placement alternatives and consider the report of the regional center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence the court shall order that the person be committed to that placement which the court finds to be the most appropriate alternative. The court, however, may commit a mentally retarded person who is not a resident of this state under Section 4460 for the purpose of transportation of such person to the state of his legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

If the Department of Developmental Services decides that a change in placement is necessary, it shall notify in writing the court of commitment, the district attorney and the attorney of record for the person and the regional center of such decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

SEC. 342. The heading of Article 6 (commencing with Section 6550) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code is amended and renumbered to read:

Article 3. Juvenile Court Wards

SEC. 343. Section 7100 of the Welfare and Institutions Code is amended to read:

7100. The board of supervisors of each county may maintain in the county hospital or in any other hospital situated within or without the county or in any other psychiatric health facility situated within or without the county, suitable facilities and nonhospital or hospital service for the detention, supervision, care, and treatment of persons who are mentally disordered, developmentally disabled, or who are alleged to be such.

The county may contract with public or private hospitals for such facilities and hospital service when they are not suitably available in any institution, psychiatric facility, or establishment maintained or

operated by the county.

The facilities and services for the mentally disordered and allegedly mentally disordered shall be subject to the approval of the State Department of Mental Health, and the facilities and services for the developmentally disabled and allegedly developmentally disabled shall be subject to the approval of the State Department of Developmental Services. The professional person having charge and control of any such hospital or psychiatric health facility shall allow the department whose approval is required to make such investigations thereof as it deems necessary at any time.

Nothing in this chapter means that mentally disordered or developmentally disabled persons may not be detained, supervised, cared for, or treated, subject to the right of inquiry or investigation by the department, in their own homes, or the homes of their relatives or friends, or in a licensed establishment.

SEC. 344. The heading of Chapter 8 (commencing with Section 9700) of Division 8.5 of the Welfare and Institutions Code is amended and renumbered to read:

CHAPTER 9. LONG-TERM HEALTH CARE FACILITY ACCESS

SEC. 345. Section 10053.25 of the Welfare and Institutions Code is amended to read:

10053.25. Funding of Sections 10053 and 14503 is subject to the provisions of Part 1.5 (commencing with Section 10100). The level of funding for Sections 14503 and 14504 shall not fall below the total amount appropriated for family planning services in the 1977–78 fiscal year.

SEC. 346. Section 10131 of the Welfare and Institutions Code is amended to read:

10131. Each county shall prepare annually for submission to the director a county social services plan which meets the objectives specified in Section 10120. The county plan, in support of the services it proposes to provide, shall contain all the information and data required for, and in the format and organization specified by this part. County plans shall be prepared and submitted in accordance with the guidelines and time schedule issued by the director.

The county plan submitted for state approval shall include at least the following:

(a) A description of the planning process.

(b) Qualitative and quantitative statement of needs and problems.

(c) A resource inventory that includes, but is not limited to:

(1) Source, amount, and funding period for all available public and private social service funds.

(2) Federal block grants available to the county or to communities in the county which are used for social services or which are not committed and may be available for social services.

(d) Statement of social service goals addressed by the plan.

(e) Statement of prioritied social service objectives which are measurable and designed to have a specific client impact.

(f) Program coordination statement developed pursuant to Section 10135.

(g) Descriptions of each social service program including the sets of activities or resources designed to attain a specific prioritied objective, which description shall include family planning. For the purposes of this chapter family planning is defined to include those activities referenced in subdivisions (a), (b), (c), and (d) of Section 14503.

(h) Statement of capacity to meet identified goals and identification of state and local constraints preventing the attainment of goals.

(i) Process for monitoring program implementation.

(j) A summary of the monitoring and reporting activities taking place in each of the local agencies.

(k) An evaluation of the effectiveness of the prior year's performance in relation to the measurable goals and objectives of social services for that year. This evaluation shall show the extent to which the numbers of persons and families proposed to be served have been served; the direct cost per unit for the delivery of those services; and the administrative cost per unit of social service for each category. The results of these evaluations shall be used to identify needs and establish priorities for the coming year.

(*l*) Total program cost and cost per unit for the delivery of the individual service program.

(m) Description of the process by which public input is solicited.

(n) Summary of public response to the plan and its priorities.

(o) Description of the process by which the plan can be amended pursuant to federal and state laws and regulations.

SEC. 347. Section 10134 of the Welfare and Institutions Code is amended to read:

10134. The department shall be the state agency responsible for preparing the state plan. The department shall be responsible for doing the following:

(a) Coordinating state activities related to this chapter.

(b) Preparing a state resources inventory.

(c) Preparing the prediction of program utilization.

(d) Providing technical assistance when requested by local agencies in the areas of need assessment, resource identification, plan and program development, evaluation design and other areas necessary to the development and improvement of a planning system.

(e) Developing minimal acceptable standards for all of the following:

(1) Needs assessment.

(2) Resource identification and inventory.

(3) Program definitions and classification system.

(4) Delivery of services.

(5) Coordination between services providers.

(6) Developing and reporting caseload data, program costs and unit costs prepared in accordance with subdivision (k) of Section 10131.

The purpose of these standards is to assure uniformity in the planning, delivery and reporting of services programs. The Office of Planning and Research shall be consulted to the maximum extent feasible in the development of such standards.

(f) Develop a system and methods by which the effectiveness of the various programs can be evaluated, including guidelines to be used by counties to assure uniformity in the reporting of evaluation results by counties.

(g) Annually establish statewide priorities.

(h) Annually distribute to the various counties the planning document which shall include the minimum acceptable standards with which the counties can commence the planning timetable.

(i) Determining minimal services and program standards in accordance with applicable state and federal laws and regulations.

(j) Reviewing and approving local plans and informing the counties and the Health and Welfare Agency of its decisions.

(k) Affording the designated local planning agency an opportunity for hearing if its local plan is disapproved.

(*l*) Preparing a county plan in lieu of the designated county planning agency pursuant to Section 10140.

(m) Monitoring local program delivery to determine compliance with statutory standards for health and safety and adherence to the minimal standards of acceptability for programs and services outlined in the plan.

(n) Receiving county plans and disseminating them to appropriate state departments and offices in order that these departments and offices may carry out their responsibilities pursuant to Section 10121.

(o) Incorporating elements of all approved local plans and relevant materials received from state departments and offices administering those social services programs covered by this chapter into a comprehensive state plan.

(p) Ensuring that all services covered by the plan are coordinated and integrated and that all elements of the plan are coordinated with the Department of Finance to ensure that they are supportive of and compatible with the budget proposed for the fiscal year in which the plan shall be in effect.

(q) Allocating, for the purposes of planning, federal and state social service funds administered by the state for counties based upon state-approved county plans.

(r) Ensuring that any public funds disbursed under this chapter to any public or private agency shall be in accordance with an approved county plan, and with applicable federal and state laws and regulations.

SEC. 348. Section 10174 of the Welfare and Institutions Code is

amended to read:

10174. The director shall develop and implement the allocation formula referred to in Section 10173. He shall seek the advice and assistance of the counties in development of the formula. The proposed formula shall become effective not sooner than 30 days after it has been submitted to the Chairman of the Joint Legislative Budget Committee. The proposed formula submitted to the chairman shall be accompanied by a statement from the County Supervisors Association of California which expresses the counties' position on the formula.

SEC. 349. Section 11404 of the Welfare and Institutions Code is repealed.

SEC. 350. Section 11405 of the Welfare and Institutions Code is amended to read:

11405. The county claims provided for in Section 11402 for aid to needy children placed in boarding homes, as defined by the rules and regulations of the department, and institutions, shall be presented by counties at times and in the form prescribed by the department. The claims shall be audited by the department and the Controller. When and in the amount approved, the Controller shall draw the necessary warrant for the amount allowed in favor of the county, and the State Treasurer, on presentation, shall pay the same from the sums appropriated in Section 15200.

SEC. 351. Section 11479 of the Welfare and Institutions Code is amended to read:

11479. In all cases in which the paternity of the child has not been established to the satisfaction of the county department, the county department shall refer the applicant to the district attorney at the time the application is signed. Upon the advice of a county department that a child is being considered for adoption, and regardless of whether or not the whereabouts of the parent is known, the district attorney shall delay his investigation and other action with respect to the case until advised that the adoption is no longer under consideration. The district attorney shall conduct such investigation as he considers necessary, and where he deems it appropriate, he may bring an action under Section 231 of the Civil Code. When the cause is at issue, it shall be set for trial at the earliest possible date and shall take precedence over all other cases except older matters of the same character and matters to which precedence may be given by law.

SEC. 352. Section 14145 of the Welfare and Institutions Code, as added by Chapter 1197 of the Statutes of 1979, is amended and renumbered to read:

14144.5. Notwithstanding any provision of this article or of any other statute to the contrary, any person who is eligible under Section 14005.4 or 14005.7 for dialysis and related services and who is employed and individually earning an amount which exceeds the minimum needs standard, and who receives dialysis services either through a self-dialysis unit of a dialysis clinic or through home

dialysis, shall be eligible for dialysis and related services under Medi-Cal pursuant to this article and shall, after utilizing other contractual or legal entitlements pursuant to Section 14143, be liable to pay only the amounts specified in subdivision (b) of Section 14142, except that such percentage obligations shall be 1 percent for each five thousand dollars ($5,000) family unit net worth. Persons eligible for services under this section shall not be subject to Section 14144.

SEC. 353. Section 16150 of the Welfare and Institutions Code, as amended by Chapter 489 of the Statutes of 1979, is amended and renumbered to read:

16155. From any funds appropriated therefor, the state shall reimburse private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for the placing for adoption of a child who meets all of the following criteria:

(a) The child is a hard-to-place child, as defined in Section 16116; and

(b) The child has been relinquished or freed from parental control to a California public agency; and

(c) The child has been placed with adoptive parents who are not eligible for fee reduction or other subsidy under an aid for adoption program for hard-to-place children as permitted by Section 16120.

The amount of the reimbursement for each placement shall be equal to the actual cost to the private adoption agency of the placement, less the amount of the private adoption agency's fee applicable to the adoptive parents, provided that the amount of such reimbursement shall not exceed one thousand five hundred dollars ($1,500) for any single placement.

No private adoption agency shall be reimbursed for the costs incurred in placing a hard-to-place child under both this section and Section 16120.1.

SEC. 354. Section 19356 of the Welfare and Institutions Code is amended to read:

19356. The department shall promulgate regulations to establish rates, after consulting with the State Department of Developmental Services and subject to the approval of the Department of Finance, by July 1, 1980. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of the service. Reasonable costs shall be determined and audited by the department annually.

SEC. 355. The heading of Chapter 8 (commencing with Section 19800) of Part 2 of Division 10 of the Welfare and Institutions Code is amended and renumbered to read:

CHAPTER 9. INDEPENDENT LIVING CENTERS

SEC. 356. Section 153 of this act, which repeals Section 1250.2 of the Health and Safety Code, shall not be operative if any other act enacted during the 1980 portion of the 1979–80 Regular Session, which takes effect on or before January 1, 1981, amends Section 1250 of the Health and Safety Code.

SEC. 357. Any section of any act enacted by the Legislature during the 1980 portion of the 1979–80 Regular Session, which takes effect on or before January 1, 1981, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 677

An act to amend Sections 2019 and 2030 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 2019 of the Code of Civil Procedure is amended to read:

2019. (a) (1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. Such notice must be at least 10 days, adding also one day for every 300 miles of the distance of the place of examination from the residence of the person to whom the notice is given, except that on motion of any party, with or without notice, and for good cause shown, the court may enlarge or shorten the time, or may stay the taking of the deposition until the hearing and determination of a motion for an order pursuant to subdivision (b) of this section. Service of such notice or motion may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of this code.

(2) Notwithstanding Section 1989 and the distance provisions specified in paragraph (4) of this subdivision, the deposition, whether of a party or any other person, shall be taken only in the county of residence of the deponent or at a place not more than 75 miles from the residence of the deponent or, if the deponent is a

party, in the county of place of trial when the place of deposition is less than 150 miles from the residence of the deponent, unless the court, pursuant to paragraph (1) or (2) of subdivision (b) of this section, otherwise orders. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

(3) If an adverse party is in default for not appearing within the time allowed by the law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, a deposition may be taken without the giving of any notice to the party so in default or not appearing; and in any case on motion of any party, with or without notice, and for good cause shown, the court may authorize the taking of a deposition without the giving of notice to parties who have not been served with summons.

(4) In the case of depositions of a party to the record of any civil action or proceeding or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such party, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney for such party or to the party, if the party has no attorney. In the case of depositions of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such person, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent or to such party, if the party has no attorney. A notice to take the deposition of a person described in this paragraph cannot require the attendance of such person at a place more than 150 miles from the residence of such person, unless the party desiring to take such deposition first obtains an order pursuant to the provisions of paragraph (2) of subdivision (b) of this section.

(5) In the case of depositions for which the production of books, documents, or other things is required of a party to the record of any civil action or proceeding or person for whose immediate benefit an action or proceeding is prosecuted or defended or anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena duces tecum and affidavit upon any such person is not required if proper notice is served upon the attorney of such party or person. Such notice shall specify the exact materials or things to be produced.

(6) A party may, in the party's notice or in a subpoena, name as the deponent a public or private corporation or partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent,

to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify in accordance with the demand. A subpoena shall advise a nonparty organization of its duty to make such a designation. The person so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by law and does not preclude the party, on such terms as are just, from offering evidence by other witnesses regarding the matters specified in the notice or subpoena.

(b) (1) Upon motion seasonably made by any party or by the person to be examined or notified to produce books, documents, or other things and upon notice, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than stated in the notice of taking the deposition, or that the deposition may be taken outside the county of residence and at a place more than 75 miles and less than 150 miles from the residence of the deponent in cases not provided for by paragraph (2) of subdivision (a) of this section, or that it shall not be taken except by allowing written interrogatories by one or more parties, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, books, documents, or other things, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs and expenses, including attorney's fees, as the court may deem reasonable.

(2) Notwithstanding Section 1989, the court may, upon motion on 10 days' written notice and for good cause shown, make an order requiring a deponent who is a party to the record of any civil action or proceeding or is a person for whose immediate benefit said action is prosecuted or defended or is at the time of the taking of the deposition an officer, director or managing agent of any such party or person to attend a deposition at a place more than 150 miles from the residence of such deponent. In granting or refusing such order, the court shall consider whether the moving party selected the forum, whether the deponent will be present at the trial, the convenience of the deponent, the suitability of discovery through a deposition by written interrogatories or other discovery methods, the number of depositions sought under this section, the expense to

the parties of requiring the deposition to be taken within 150 miles of the residence of the deponent, the whereabouts of the deponent at the time the deposition is scheduled to be taken, and all other factors tending to show whether or not the interests of justice and the convenience of the parties and witnesses will be served by requiring the deponent to appear for the deposition at a place more than 150 miles from the deponent's residence. Such order may provide that the party desiring to take such deposition shall pay the reasonable expenses incurred by the deponent in attending such deposition and that the party furnish an undertaking approved by the court to secure such payment and may contain such other terms and conditions as are equitable and just.

(c) The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) At any time during the taking of the deposition, on motion of any party or of the deponent, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the superior court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b) of this section. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses, including attorney's fees, as the court may deem reasonable.

(e) Unless the parties agree on the record to another procedure for reading, correcting, and signing the original of the deposition, when the testimony is fully transcribed the officer shall notify the deponent and counsel in writing that the original of the deposition is available for reading, correcting and signing at the office of the

officer, and shall remain so available during business hours of business days for a period of 30 calendar days following such notification. The examination and reading of the transcribed testimony may be waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition. The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following the notification prescribed in this subdivision by means of a letter addressed and mailed or delivered to the transcribing officer indicating any changes to be made, approval, or refusal to approve the deposition. Such changes, approval, or refusal to approve the deposition, when made by letter, shall be equivalent to personal changes, approval, or refusal to approve the deposition.

If the deponent fails to appear at the office of the officer or notify him by letter as provided in this subdivision within such 30-day period, or if the witness so appears or sends such letter but refuses to approve or sign the deposition, the officer shall indicate on the original the fact that the deponent failed to appear, or the fact that the deponent refused to sign together with any reason given therefor. Thereafter the deposition shall have the same force and effect as though it had been read, corrected and signed by the deponent, unless on a motion to suppress under subdivision (d) of Section 2021 of this code the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) (1) The officer shall certify on the deposition and each copy thereof that the witness was duly sworn by such officer and that the deposition is a true record of the testimony given by the witness. Promptly upon the correction, approval, or refusal to approve the deposition, or upon the expiration of 30 calendar days following notification to the witness that the deposition is available for reading, correcting and signing, the officer shall securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)". Depositions shall not be filed unless and until their contents become relevant to an issue in the trial or other pending proceedings at which time the court may order that the deposition or a copy thereof certified by the officer, reflecting any changes made by the witness, be filed as part of the record.

(2) The officer taking the deposition shall give prompt notice to all parties of (i) the availability of the deposition for reading, correction, and approval; and (ii) all changes in the deposition made by the witness. Upon request made before the delivery or mailing of the deposition and payment of reasonable charges therefor, the officer shall furnish a certified copy of the deposition to any party to the action or to the deponent.

(3) Unless the parties agree on the record that the party noticing the deposition shall do so, the officer taking the deposition shall keep the deposition for six months following the final disposition of the

case. If the officer discontinues his or her occupation of taking depositions, by reason of death or otherwise, the officer or an agent of the officer shall file the deposition with the court.

Whenever a deposition is taken out of this state pursuant to Section 2024, or by stipulation of the parties, the officer before whom the deposition is taken shall, by accepting the commission or undertaking to act pursuant to agreement, be deemed to have consented to be bound by all provisions of this code relating to the reporting, transcribing, certification, copying, signing, refusal to sign or change, sealing, and custody of the deposition, unless otherwise agreed by the parties on the record.

Notwithstanding paragraph (1) of subdivision (f), if the officer before whom such a deposition is taken is not a shorthand reporter having in this state a place of business where the deposition will be kept, the officer shall promptly upon sealing, send the deposition to the clerk of the court in which the action is pending for filing, unless the parties agree on record to the contrary. The clerk shall accept and file the deposition.

A filing fee of six dollars ($6) shall be charged by the clerk for filing the deposition. The fee shall be paid to the officer at the time the deposition is taken by the party noticing it or by stipulation, and the officer shall pay the fee to the clerk at the time of filing.

(g) (1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

SEC. 1.1. Section 2019 of the Code of Civil Procedure is amended to read:

2019. (a) (1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. Such notice must be at least 10 days, adding also one day for every 300 miles of the distance of the place of examination from the residence of the person to whom the notice is given, except that on motion of any party, with or without notice, and for good cause shown, the court may enlarge or shorten

the time, or may stay the taking of the deposition until the hearing and determination of a motion for an order pursuant to subdivision (b) of this section. Service of such notice or motion may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of this code.

(2) Notwithstanding Section 1989 and the distance provisions specified in paragraph (4) of this subdivision, the deposition, whether of a party or any other person, shall be taken only in the county of residence of the deponent or at a place not more than 75 miles from the residence of the deponent or, if the deponent is a party, in the county of place of trial when the place of deposition is less than 150 miles from the residence of the deponent, unless the court, pursuant to paragraph (1) or (2) of subdivision (b) of this section, otherwise orders. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

(3) If an adverse party is in default for not appearing within the time allowed by the law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, a deposition may be taken without the giving of any notice to the party so in default or not appearing; and in any case on motion of any party, with or without notice, and for good cause shown, the court may authorize the taking of a deposition without the giving of notice to parties who have not been served with summons.

(4) In the case of depositions of a party to the record of any civil action or proceeding or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such party, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney for such party or to the party, if the party has no attorney. In the case of depositions of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such person, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent or to such party, if the party has no attorney. A notice to take the deposition of a person described in this paragraph cannot require the attendance of such person at a place more than 150 miles from the residence of such person, unless the party desiring to take such deposition first obtains an order pursuant to the provisions of paragraph (2) of subdivision (b) of this section.

(5) In the case of depositions for which the production of books, documents, or other things is required of a party to the record of any civil action or proceeding or person for whose immediate benefit an action or proceeding is prosecuted or defended or anyone who is an officer, director, or managing agent of any such party or person, the

service of a subpoena duces tecum and affidavit upon any such person is not required if proper notice is served upon the attorney of such party or person. Such notice shall specify the exact materials or things to be produced.

(6) A party may, in the party's notice or in a subpoena, name as the deponent a public or private corporation or partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent, to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify in accordance with the demand. A subpoena shall advise a nonparty organization of its duty to make such a designation. The person so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by law and does not preclude the party, on such terms as are just, from offering evidence by other witnesses regarding the matters specified in the notice or subpoena.

(b) (1) Upon motion seasonably made by any party or by the person to be examined or notified to produce books, documents, or other things and upon notice, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than stated in the notice of taking the deposition, or that the deposition may be taken outside the county of residence and at a place more than 75 miles and less than 150 miles from the residence of the deponent in cases not provided for by paragraph (2) of subdivision (a) of this section, or that it shall not be taken except by allowing written interrogatories by one or more parties, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, books, documents, or other things, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs and expenses, including attorney's fees, as the court may deem reasonable.

(2) Notwithstanding Section 1989, the court may, upon motion on 10 days' written notice and for good cause shown, make an order requiring a deponent who is a party to the record of any civil action

or proceeding or is a person for whose immediate benefit said action is prosecuted or defended or is at the time of the taking of the deposition an officer, director or managing agent of any such party or person to attend a deposition at a place more than 150 miles from the residence of such deponent. In granting or refusing such order, the court shall consider whether the moving party selected the forum, whether the deponent will be present at the trial, the convenience of the deponent, the suitability of discovery through a deposition by written interrogatories or other discovery methods, the number of depositions sought under this section, the expense to the parties of requiring the deposition to be taken within 150 miles of the residence of the deponent, the whereabouts of the deponent at the time the deposition is scheduled to be taken, and all other factors tending to show whether or not the interests of justice and the convenience of the parties and witnesses will be served by requiring the deponent to appear for the deposition at a place more than 150 miles from the deponent's residence. Such order may provide that the party desiring to take such deposition shall pay the reasonable expenses incurred by the deponent in attending such deposition and that the party furnish an undertaking approved by the court to secure such payment and may contain such other terms and conditions as are equitable and just.

(c) The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. A party may videotape the deposition if the notice of taking deposition states that the deposition will also be videotaped, however, the cost of the videotape portion of the deposition shall not be a recoverable court cost. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) At any time during the taking of the deposition, on motion of any party or of the deponent, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the superior court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b) of this section.

If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses, including attorney's fees, as the court may deem reasonable.

(e) Unless the parties agree on the record to another procedure for reading, correcting, and signing the original of the deposition, when the testimony is fully transcribed the officer shall notify the deponent and counsel in writing that the original of the deposition is available for reading, correcting and signing at the office of the officer, and shall remain so available during business hours of business days for a period of 30 calendar days following such notification. The examination and reading of the transcribed testimony may be waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition. The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following the notification prescribed in this subdivision by means of a letter addressed and mailed or delivered to the transcribing officer indicating any changes to be made, approval, or refusal to approve the deposition. Such changes, approval, or refusal to approve the deposition, when made by letter, shall be equivalent to personal changes, approval, or refusal to approve the deposition.

If the deponent fails to appear at the office of the officer or notify him by letter as provided in this subdivision within such 30-day period, or if the witness so appears or sends such letter but refuses to approve or sign the deposition, the officer shall indicate on the original the fact that the deponent failed to appear, or the fact that the deponent refused to sign together with any reason given therefor. Thereafter the deposition shall have the same force and effect as though it had been read, corrected and signed by the deponent, unless on a motion to suppress under subdivision (d) of Section 2021 of this code the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) (1) The officer shall certify on the deposition and each copy thereof that the witness was duly sworn by such officer and that the deposition is a true record of the testimony given by the witness. Promptly upon the correction, approval, or refusal to approve the deposition, or upon the expiration of 30 calendar days following notification to the witness that the deposition is available for reading, correcting and signing, the officer shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)". Depositions shall not be filed unless and until their contents become relevant to an issue in the trial or other pending proceedings at which time the

court may order that the deposition or a copy thereof certified by the officer, reflecting any changes made by the witness, be filed as part of the record

(2) The officer taking the deposition shall give prompt notice to all parties of (i) the availability of the deposition for reading, correction, and approval; and (ii) all changes in the deposition made by the witness. Upon request made before the delivery or mailing of the deposition and payment of reasonable charges therefor, the officer shall furnish a certified copy of the deposition to any party to the action or to the deponent.

(3) Unless the parties agree on the record that the party noticing the deposition shall do so, the officer taking the deposition shall keep the deposition for six months following the final disposition of the case. If the officer discontinues his or her occupation of taking depositions, by reason of death or otherwise, the officer or an agent of the officer shall file the deposition with the court.

Whenever a deposition is taken out of this state pursuant to Section 2024, or by stipulation of the parties, the officer before whom the deposition is taken shall, by accepting the commission or undertaking to act pursuant to agreement, be deemed to have consented to be bound by all provisions of this code relating to the reporting, transcribing, certification, copying, signing, refusal to sign or change, sealing, and custody of the deposition, unless otherwise agreed by the parties on the record.

Notwithstanding paragraph (1) of subdivision (f), if the officer before whom such a deposition is taken is not a shorthand reporter having in this state a place of business where the deposition will be kept, the officer shall promptly upon sealing, send the deposition to the clerk of the court in which the action is pending for filing, unless the parties agree on record to the contrary. The clerk shall accept and file the deposition.

A filing fee of six dollars ($6) shall be charged by the clerk for filing the deposition. The fee shall be paid to the officer at the time the deposition is taken by the party noticing it or by stipulation, and the officer shall pay the fee to the clerk at the time of filing.

(g) (1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

SEC. 2. Section 2030 of the Code of Civil Procedure is amended to read:

2030. (a) Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, or body politic, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may be served upon any other party at any time after service of the summons or the appearance of such other party and without leave of court except that, if service of interrogatories is made by the plaintiff within 10 days after such service of summons or appearance, leave of court granted with or without notice must first be obtained. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories have been served shall serve the answers on the party submitting the interrogatories within 30 days after the service of the interrogatories, unless the court, on motion and notice and for good cause shown, enlarges or shortens the time. For good cause and without notice, the court may enlarge the time not to exceed 15 days. Such answers shall respond to the written interrogatories; or, if any interrogatory be deemed objectionable, the objections thereto may be stated by the party addressed in lieu of response. If the party who has submitted the interrogatories deems that further response is required, he may move the court for an order requiring further response. Such motion must be upon notice given within 30 days from date of service of the answers or objections unless the court, on motion and notice, and for good cause shown, enlarges the time. Otherwise, the party submitting the interrogatories shall be deemed to have waived the right to compel answer pursuant to this section. Copies of all interrogatories and of all answers thereto shall be served upon all other parties to the action who have appeared; but the court on motion with or without notice may waive this requirement if the court determines that enforcement thereof would be unduly expensive, oppressive or burdensome. At any time prior to final judgment and upon written request, the party originating interrogatories or responses thereto shall provide within 30 days of such request a copy thereof to any other party for any reason not previously served.

The party serving the interrogatories shall retain the original thereof with the original proof of service affixed thereto. The party responding to the interrogatories shall serve the original responses made under oath upon the party serving the interrogatories. The original responses shall be retained by the party serving the interrogatories. No party required to retain the original interrogatories and responses thereto pursuant to this paragraph shall be required to retain such documents after final judgment in the action in which such interrogatories are served.

(b) The written interrogatories and any responses thereto shall not be filed unless the court, on motion and notice and for good cause

shown, so orders. Notwithstanding subdivision (a), any party may lodge with the court the original or a copy of any written interrogatories or responses thereto, but these shall not be filed unless the court determines that their contents have become relevant to an issue in a trial or other proceeding.

(c) Interrogatories may relate to any matters which can be inquired into under subdivision (b) of Section 2016 of this code, and the answers may be used to the same extent as provided in subdivision (d) of Section 2016 of this code for the use of the deposition of a party. Interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered, but the court, on motion of the deponent or the party interrogated, may make such protective order as justice may require. The number of interrogatories or of sets of interrogatories to be served is not limited except as above provided and except as justice requires to protect the party from annoyance, expense, embarrassment or oppression. The provisions of subdivision (b) of Section 2019 of this code are applicable for the protection of the party from whom answers to interrogatories are sought under this section.

(d) When in order to answer an interrogatory it is necessary to make a compilation, abstract, audit or summary of the business records of a party, and such a compilation, abstract, audit or summary does not exist, or if it does exist, it is not in the possession or under control of such party, it shall be a sufficient answer to such interrogatory to so state and to specify the records from which the answer may be derived or ascertained and to afford to the party by whom the interrogatory was proposed reasonable opportunity to examine, audit or inspect such records and to make copies thereof or compilations, abstracts or summaries therefrom.

(e) Service of interrogatories and responses under this section may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 2473 are both chaptered and become effective January 1, 1981, both bills amend Section 2019 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill 2473, that the amendments to Section 2019 proposed by both bills be given effect and incorporated in Section 2019 in the form set forth in Section 1.1 of this act. Therefore, Section 1.1 of this act shall become operative only if this bill and Assembly Bill 2473 are both chaptered and become effective January 1, 1981, both amend Section 2019, and this bill is chaptered after Assembly Bill 2473, in which case Section 1 of this act shall not become operative.

CHAPTER 678

An act to amend Section 5782.21 of, and to repeal Section 5782.24 of, the Public Resources Code, relating to recreation and park districts.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 5782.21 of the Public Resources Code is amended to read:

5782.21. The district board may adopt and enforce all rules, regulations, ordinances, and bylaws necessary for the administration, government, and protection of the property, improvements, and facilities under its management or belonging to the district. Violation of any rule, regulation, or ordinance adopted pursuant to this section or Section 5782.22 or 5782.23 is a misdemeanor punishable by a fine not to exceed one hundred dollars ($100) or by imprisonment in the county jail for a period not to exceed one month, or by both such fine and imprisonment, unless the district board determines that a violation of any such rule, regulation, or ordinance is an infraction, punishable by a fine not to exceed fifty dollars ($50).

SEC. 2. Section 5782.24 of the Public Resources Code is repealed.

CHAPTER 679

An act to amend Section 7907 of the Public Utilities Code, relating to telephones.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 7907 of the Public Utilities Code is amended to read:

7907. Notwithstanding Section 591, 631, or 632 of the Penal Code or Section 7906 of this code, whenever the supervising law enforcement official having jurisdiction has probable cause to believe that a person is holding hostages and is committing a crime, or is barricaded and is resisting apprehension through the use or threatened use of force, such official may order a previously designated telephone corporation security employee to arrange to cut, reroute, or divert telephone lines for the purpose of preventing telephone communication by such suspected person with any person other than a peace officer or a person authorized by the peace

officer.

The telephone corporation shall designate a person as its security employee and an alternate to provide all required assistance to law enforcement officials to carry out the purposes of this section.

Good faith reliance on an order by a supervising law enforcement official shall constitute a complete defense to any action brought under this section.

CHAPTER 680

An act to amend Sections 20002, 20003, 40000.13, and 40303 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 20002 of the Vehicle Code is amended to read:

20002. (a) The driver of any vehicle involved in an accident resulting in damage to any property, including vehicles, shall immediately stop the vehicle at the scene of the accident and shall then and there do one of the following:

(1) Locate and notify the owner or person in charge of such property of the name and address of the driver and owner of the vehicle involved and, upon locating the driver of any other vehicle involved or the owner or person in charge of any damaged property, upon being requested, present his driver's license and vehicle registration to the other driver, property owner, or person in charge of such property. The information presented shall include the current residence address of the driver and of the registered owner. If the registered owner of an involved vehicle is present at the scene, he shall also, upon request, present his driver's license information, if available, or other valid identification to the other involved parties.

(2) Leave in a conspicuous place on the vehicle or other property damaged a written notice giving the name and address of the driver and of the owner of the vehicle involved and a statement of the circumstances thereof and shall without unnecessary delay notify the police department of the city wherein the collision occurred or, if the collision occurred in unincorporated territory, the local headquarters of the Department of the California Highway Patrol.

Any person failing to comply with all the requirements of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not to exceed six months or by a fine of not to exceed five hundred dollars ($500) or by both.

(b) Any person who parks a vehicle which, prior to the vehicle

again being driven, becomes a runaway vehicle and is involved in an accident resulting in damage to any property, attended or unattended, shall comply with the requirements of this section relating to notification and reporting and shall, upon conviction thereof, be liable to the penalties of this section for failure to comply with such requirements.

SEC. 2. Section 20003 of the Vehicle Code is amended to read:

20003. (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall also give his name, address, the registration number of the vehicle he is driving, and the name of the owner to the person struck or the driver or occupants of any vehicle collided with or shall give such information to any traffic or police officer at the scene of the accident and shall render to any person injured in the accident reasonable assistance, including the carrying or the making arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if such carrying is requested by the injured person.

(b) Any driver subject to the provisions of subdivision (a) shall also, upon being requested, exhibit his driver's license, if available, to the person struck or to the driver or occupants of any vehicle collided with or to any traffic or police officer at the scene of the accident.

SEC. 3. Section 40000.13 of the Vehicle Code is amended to read:

40000.13. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

(a) Section 16560, relating to interstate highway carriers.

(b) Sections 20002 and 20003, relating to duties at accidents.

SEC. 4. Section 40303 of the Vehicle Code is amended to read:

40303. Whenever any person is arrested for any of the following offenses and the arresting officer is not required to take the person without unnecessary delay before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a 10 days' notice to appear as herein provided or be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made:

(a) Section 10852 or 10853, relating to injuring or tampering with a vehicle.

(b) Section 23103 or 23104, relating to reckless driving.

(c) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lights upon the vehicle under Section 2804 hereof, which is punishable as a misdemeanor.

(d) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to a brake test which is punishable as a misdemeanor.

(e) Section 2800, relating to the refusal to submit vehicle and load

to an inspection, measurement, or weighing as prescribed in Section 2802 or a refusal to adjust the load or obtain a permit as prescribed in Section 2803.

(f) Sections 20002 or 20003, relating to duties in the event of an accident.

(g) Section 23109, relating to participating in speed contests or exhibition of speed.

(h) Sections 14601 and 14601.1, relating to driving while license is suspended or revoked.

(i) When the person arrested has attempted to evade arrest.

(j) Section 23332, relating to persons upon vehicular crossings.

(k) Section 2813, relating to the refusal to stop and submit a vehicle to an inspection of its size, weight, and equipment.

(*l*) Section 21461.5, as it relates to a pedestrian who, after being cited for a violation of Section 21461.5, is, within 24 hours, again found upon the freeway in violation of Section 21461.5 and thereafter refuses to leave the freeway after being lawfully ordered to do so by a peace officer and after having been informed that his failure to leave could result in his arrest.

(m) Section 2800, as it relates to a pedestrian who, after having been cited for a violation of Section 2800 for failure to obey a lawful order of a peace officer issued pursuant to Section 21962, is within 24 hours again found upon the bridge or overpass and thereafter refuses to leave after being lawfully ordered to do so by a peace officer and after having been informed that his failure to leave could result in his arrest.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 681

An act to amend Sections 5356, 5358, and 5358.6 of the Welfare and Institutions Code, relating to mental health conservatorships.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 5356 of the Welfare and Institutions Code is amended to read:

5356. The report of the officer providing conservatorship investigation shall contain his or her recommendations concerning the powers to be granted to, and the duties to be imposed upon the conservator, the legal disabilities to be imposed upon the conservatee, and the proper placement for the conservatee pursuant to Section 5358. The report to the court shall also contain an agreement signed by the person or agency recommended to serve as conservator certifying that the person or agency is able and willing to serve as conservator.

SEC. 2. Section 5358 of the Welfare and Institutions Code is amended to read:

5358. (a) When ordered by the court after the hearing required by this section, a conservator appointed pursuant to this chapter shall place his or her conservatee in the least restrictive alternative placement, as designated by the court. Such placement may include a medical, psychiatric, nursing, or other state-licensed facility, or a state hospital, county hospital, hospital operated by the Regents of the University of California, a United States government hospital, or other nonmedical facility approved by the State Department of Mental Health or an agency accredited by the State Department of Mental Health, or in addition to any of the foregoing, in cases of chronic alcoholism, to a county alcoholic treatment center.

(b) A conservator shall also have the right, if specified in the court order, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his or her conservatee to receive other medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled which is necessary for the treatment of an existing or continuing medical condition. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order specifically authorizing such surgery obtained pursuant to Section 5358.2.

(c) If the conservatee is not to be placed in his or her own home or the home of a relative, first priority shall be to placement in a suitable facility as close as possible to his or her home or the home of a relative. For the purposes of this section, suitable facility means the least restrictive residential placement available and necessary to achieve the purposes of treatment. At the time that the court considers the report of the officer providing conservatorship investigation specified in Section 5356, the court shall consider available placement alternatives. After considering all the evidence the court shall determine the least restrictive and most appropriate alternative placement for the conservatee. The court shall also determine those persons to be notified of a change of placement.

If requested, the local mental health director shall assist the

conservator or the court in selecting a placement facility for the conservatee. When a conservatee who is receiving services from the local mental health program is placed, the conservator shall inform the local mental health director of the facility's location and any movement of the conservatee to another facility.

(d) The conservator may transfer his or her conservatee to a less restrictive alternative placement without a further hearing and court approval. In any case in which a conservator has reasonable cause to believe that his or her conservatee is in need of immediate more restrictive placement because the condition of the conservatee has so changed that the conservatee poses an immediate and substantial danger to himself or herself or others, the conservator shall have the right to place his or her conservatee in a more restrictive facility or hospital. Notwithstanding Section 5328, if the change of placement is to a placement more restrictive than the court-determined placement, the conservator shall provide written notice of the change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate and such other persons designated by the court pursuant to subdivision (c).

SEC. 3. Section 5358.6 of the Welfare and Institutions Code is amended to read:

5358.6. Any conservator who places his or her conservatee in an inpatient facility pursuant to Section 5358, may also require the conservatee to undergo outpatient treatment. Before doing so, the conservator shall obtain the agreement of the person in charge of a mental health facility that the conservatee will receive outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the conservatee. The person in charge of these facilities shall notify the county mental health director or his or her designee of such agreement. At 90-day intervals following the commencement of the outpatient treatment, the outpatient supervisor shall make a report in writing to the conservator and to the person in charge of the mental health facility setting forth the status and progress of the conservatee.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 682

An act to amend Section 11476.1 of the Welfare and Institutions Code, relating to judgments.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 11476.1 of the Welfare and Institutions Code is amended to read:

11476.1. (a) In any case where the district attorney has undertaken enforcement of support, the district attorney may enter into an agreement with the noncustodial parent, on behalf of a minor child or children, for the entry of a judgment without action determining paternity, if applicable, and for periodic child support payments based on the noncustodial parent's reasonable ability to pay. An agreement for entry of a judgment under this section may be executed prior to the birth of the child and may include a provision that the judgment is not to be entered until after the birth of the child.

(b) A judgment based on the agreement shall be entered only if one of the following requirements is satisfied:

(1) The noncustodial parent is represented by legal counsel and the attorney signs a certificate stating: "I have examined the proposed judgment and have advised my client concerning his or her rights in connection with this matter and the consequences of signing or not signing the agreement for the entry of the judgment and my client, after being so advised, has agreed to the entry of the judgment.

(2) A judge of the court in which the judgment is to be entered, after advising the noncustodial parent concerning his or her rights in connection with the matter and the consequences of agreeing or not agreeing to the entry of the judgment, makes a finding that the noncustodial parent has appeared before the judge and the judge has determined that under the circumstances of the particular case the noncustodial parent has willingly, knowingly, and intelligently waived his or her due process rights in agreeing to the entry of the judgment.

(c) The clerk shall file the agreement, together with any certificate of the attorney or finding of the court, without the payment of any fees or charges. If the requirements of this section are satisfied, the court shall enter judgment thereon without action. The provisions of Civil Code Section 4702 shall apply to such judgment. A judgment for support so entered may be enforced by any means by which any other judgment for support may be enforced.

(d) Upon request of the district attorney in any case under this

section, the clerk shall set the matter for hearing by the court. The hearing shall be held within 10 days after the clerk receives the request. The district attorney may require the person who signed the agreement for the entry of judgment to attend the hearing by process of subpoena in the same manner as the attendance of a witness in a civil action may be required. The presence of the person who signed the agreement for entry of judgment at the hearing shall constitute the presence of the person in court at the time the order is pronounced for the purposes of Section 1209.5 of the Code of Civil Procedure if the court makes the findings required by paragraph (2) of subdivision (b).

(e) The district attorney shall cause the following to be served, in the manner specified in Section 415.10, 415.20, 415.30, or 415.40 of the Code of Civil Procedure, upon the person who signed the agreement for entry of the judgment and shall file proof of service thereof with the court:

(1) A copy of the judgment as entered.

(2) If the judgment includes an order for child support payments, a notice stating the substance of the following: "The court has continuing authority to make an order increasing or decreasing the amount of the child support payments. You have the right to request that the court order the child support payments be decreased or eliminated entirely."

(f) An order for child support included in a judgment entered under this section may be modified or revoked as provided in Section 4700 of the Civil Code. The court may modify the order to make the support payments payable to a different person.

(g) For the purposes of this section, in making a determination of the noncustodial parent's reasonable ability to pay, any relevant circumstances set out in Section 246 of the Civil Code shall be considered.

(h) After arrest and before plea or trial, or after conviction or plea of guilty, under Section 270 of the Penal Code, if the defendant appears before the court in which the criminal action is pending and the requirements of paragraph (1) or (2) of subdivision (b) have been satisfied, the court may suspend proceedings or sentence in the criminal action, but this does not limit the later institution of a civil or criminal action or limit the use of any other procedures available to enforce the judgment entered pursuant to this section.

(i) Nothing in this section applies to a case where a civil action has been commenced.

CHAPTER 683

An act to amend, add, and repeal Sections 1191, 1202, and 1207 of the Harbors and Navigation Code, relating to inland pilots.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 1191 of the Harbors and Navigation Code is amended to read:

1191. All pilotage between and within ports of the Bays of San Francisco, San Pablo, and Suisun, and their tributaries to the ports of Stockton and Sacramento, exclusive of the jurisdiction of the port of Sacramento, shall be at such rates as are established by the Legislature. However, the port authority for the port of Stockton may establish different rates for use within its jurisdiction.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 2. Section 1191 is added to the Harbors and Navigation Code, to read:

1191. Pilotage between and within ports of the Bays of San Francisco, San Pablo, and Suisun shall be at such rates as are agreed upon by the parties.

This section shall become operative on January 1, 1984.

SEC. 3. Section 1202 of the Harbors and Navigation Code is amended to read:

1202. (a) Two members of the committee shall be pilots licensed under the provisions of this division and shall be termed pilot members.

(b) When the committee is considering and recommending rates for pilotage pursuant to subdivision (d) of Section 1207, the two pilot members licensed pursuant to this division shall be replaced by two full-time inland pilots actively piloting vessels between and within the ports of the Bays of San Francisco, San Pablo, and Suisun and their tributaries.

As used in this subdivision, "inland pilot" means a pilot who pilots vessels from a line drawn between Anita Rock and Yellow Bluff to the Bays of San Francisco, San Pablo, and Suisun, and on tributaries thereof to the ports of Stockton and Sacramento, exclusive of the jurisdiction of the port of Sacramento, and from such bays, tributaries, and ports to a line drawn between Anita Rock and Yellow Bluff. "Inland pilot" also means a pilot who pilots vessels as provided under a federal license.

(c) Two members shall be termed industry members and shall be appointed from a list of not less than eight persons currently engaged as owners, officers, directors, employees, or representatives of firms,

or associations of firms, which are substantial users of pilotage services in San Francisco, San Pablo, and Suisun Bays, which list shall be submitted to the Governor by such users upon formation of the committee. Upon the occurrence of any vacancy among industry members a list of not less than eight such persons engaged in such capacities shall be so submitted. One of such industry members shall be engaged in the dry cargo or passenger field of operation and the other in the tanker field of operation.

(d) One member of the committee shall be termed a public member and shall not be a pilot licensed under the provisions of this division, or an officer, director, employee, or representative of the shipping industry, or have been substantially connected with any phase of the maritime industry, whether as a proprietor or as a supplier of services or goods to vessels.

The public member shall be appointed from a list of not less than three such persons nominated by the industry members and pilot members of the committee. If the industry members and pilot members of the committee have not agreed upon nominations required by this section within 60 days of the date a vacancy occurs for the appointment of a public member, the Governor may make such appointment without regard to any such nominations.

(e) Each member of the committee shall be a resident of one of the following counties: San Francisco, Alameda, Contra Costa, Marin, San Mateo, Santa Clara, or Solano.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 4. Section 1202 is added to the Harbors and Navigation Code, to read:

1202. Two members of the committee shall be pilots licensed under the provisions of this division and shall be termed pilot members.

Two members shall be termed industry members and shall be appointed from a list of not less than eight persons currently engaged as owners, officers, directors, employees, or representatives of firms, or associations of firms, which are substantial users of pilotage services in San Francisco, San Pablo, and Suisun Bays, which list shall be submitted to the Governor by such users upon formation of the committee. Upon the occurrence of any vacancy among industry members a list of not less than eight such persons engaged in such capacities shall be so submitted. One of such industry members shall be engaged in the dry cargo or passenger field of operation and the other in the tanker field of operation.

One member of the committee shall be termed a public member and shall not be a pilot licensed under the provisions of this division, or an officer, director, employee, or representative of the shipping industry, or have been substantially connected with any phase of the maritime industry, whether as a proprietor or as a supplier of services or goods to vessels.

The public member shall be appointed from a list of not less than three such persons nominated by the industry members and pilot members of the committee. If the industry members and pilot members of the committee have not agreed upon nominations required by this section within 60 days of the date a vacancy occurs for the appointment of a public member, the Governor may make such appointment without regard to any such nominations

Each member of the committee shall be at least 35 years of age and a resident of one of the following counties: San Francisco, Alameda, Contra Costa, Marin, San Mateo, Santa Clara, or Solano.

This section shall become operative on January 1, 1984.

SEC. 5. Section 1207 of the Harbors and Navigation Code is amended to read:

1207. It shall be the function of the committee to make recommendations to the Legislature on the following matters:

(a) The rates for bar pilotage which should be established under the provisions of Section 1190.

(b) Changes, if any, which should be made in the provisions relating to pilotage rates or affecting rates which are contained in Section 1127, 1128, 1140, 1141, 1192, or 1193.

(c) Changes, if any, which may be proposed as the basis for determining any of the rates for bar pilotage referred to in subdivisions (a) and (b) of this section.

(d) The rates for pilotage services performed by inland pilots within the ports of the Bays of San Francisco, San Pablo, and Suisun, and their tributaries to the ports of Stockton and Sacramento, exclusive of the jurisdiction of the port of Sacramento.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 6. Section 1207 is added to the Harbors and Navigation Code, to read:

1207. It shall be the function of the committee to make recommendations to the Legislature on the following matters:

(a) The rates for bar pilotage which should be established under the provisions of Section 1190.

(b) Changes, if any, which should be made in the provisions relating to pilotage rates or affecting rates which are contained in Section 1127, 1128, 1140, 1141, 1192, or 1193.

(c) Changes, if any, which may be proposed as the basis for determining any of the rates for bar pilotage referred to in subdivisions (a) and (b) of this section.

This section shall become operative on January 1, 1984.

CHAPTER 684

An act to amend Section 415.5 of the Penal Code, relating to offensive words.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 415.5 of the Penal Code is amended to read:

415.5. (a) Any person who (1) unlawfully fights within any building or upon the grounds of any school, community college, state college, or state university or challenges another person within any such building or upon such grounds to fight, or (2) maliciously and willfully disturbs another person within any such building or upon such grounds by loud and unreasonable noise, or (3) uses offensive words within any such building or upon such grounds which are inherently likely to provoke an immediate violent reaction is guilty of a misdemeanor and shall be punished as follows·

(i) Upon a first conviction by a fine not exceeding two hundred dollars ($200) or by imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment.

(ii) If the defendant has been previously convicted once of a violation of this section or of any offense defined in Chapter 1 (commencing with Section 626) of Title 15 of Part 1, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 10 days.

(iii) If the defendant has been previously convicted two or more times of a violation of this section or of any offense defined in Chapter 1 (commencing with Section 626) of Title 15 of Part 1, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 90 days.

(b) For the purpose of determining the penalty to be imposed pursuant to this section, the court may consider a written report from the Department of Justice containing information from its records showing prior convictions; and the communication is prima facie evidence of such convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

(c) As used in this section "state university," "state college," "community college," and "school" have the same meaning as these terms are given in Section 626

(d) This section shall not apply to any person who is a registered student of the school.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 685

An act to amend Section 3247 of the Civil Code, and to amend Sections 14254, 14256, 14290, and 14310 of, and to repeal Section 14257 of, the Government Code, relating to public works.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 3247 of the Civil Code is amended to read:

3247. (a) Every original contractor to whom is awarded a contract by a public entity involving an expenditure in excess of twenty-five thousand dollars ($25,000) for any public work shall, before entering upon the performance of the work, file a payment bond with and approved by the officer or public entity by whom the contract was awarded.

A public entity shall state in its call for bids for any such contract that such bond is required in the case of such an expenditure.

(b) A payment bond filed and approved in accordance with this section shall be sufficient to enter upon the performance of work under a duly authorized contract which supplements the contract for which such payment bond was filed, if the requirement of a new bond is waived by the public entity.

(c) For purposes of this section, providers of architectural, engineering, and land surveying services pursuant to a contract with a public entity for any public work shall not be deemed an original contractor and shall not be required to post or file the payment bond required in subdivisions (a) and (b). This subdivision shall apply to all contracts entered into subsequent to January 1, 1971.

The amendment to this section made during the 1980 portion of the 1979–80 Regular Session of the Legislature by Chapter 293 of the Statutes of 1980, does not constitute a change in, but is declaratory of, existing law.

SEC. 2. Section 14254 of the Government Code is amended to

read:

14254. As used in this chapter, "project" includes the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind which will exceed in cost a total of twenty-five thousand dollars ($25,000).

SEC. 3. Section 14256 of the Government Code is amended to read:

14256. Where the nature of the work in the opinion of the department is such that its services in connection therewith are not required, it may authorize the carrying out of the project directly by the state agency concerned therewith if the estimated cost does not exceed two hundred thousand dollars ($200,000), except that the two hundred thousand dollars ($200,000) limitation shall not apply to a project of a district agricultural association or a project of the State Lands Commission.

If the estimated total cost of any construction project or work carried out under this section exceeds twenty-five thousand dollars ($25,000), the district or agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids; provided, however, that the director may authorize the district or agency to carry out work in excess of twenty-five thousand dollars ($25,000) under the provisions of this section by day labor if he deems that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state; however, in no event shall the amount of work performed by day labor under this section exceed the sum of fifty thousand dollars ($50,000) in the case of district agricultural association fair projects, or thirty-five thousand dollars ($35,000) in other cases.

SEC. 4. Section 14257 of the Government Code is repealed.

SEC. 5. Section 14290 of the Government Code is amended to read:

14290. Public notice of a project shall be given by publication once a week for at least two consecutive weeks, or once a week for more than two consecutive weeks if such longer period of advertising is deemed necessary by the department, next preceding the day set for the receiving of bids, as follows:

(a) In a newspaper of general circulation published in the county in which the project is located, or if located in more than one county, in such a newspaper in a county in which a major portion of the work is to be done; and

(b) In a trade paper of general circulation published in San Francisco for projects located in County Group No. 1, as defined in Section 187 of the Streets and Highways Code, or in Los Angeles for projects located in County Group No. 2, as defined in said Section 187, devoted primarily to the dissemination of contract and building news among contracting and building materials supply firms.

The department may publish the notice to bidders for a project in such additional trade papers or newspapers of general circulation as

it deems advisable.

SEC. 6. Section 14310 of the Government Code is amended to read:

14310. The department may, and on contracts the estimated cost of which exceeds three hundred thousand dollars ($300,000) the department shall, require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder's financial ability and experience in performing public works. When completed, the questionnaire and financial statement shall be verified under oath by the bidder in the manner in which pleadings in civil actions are verified.

CHAPTER 686

An act to add Sections 136.1 and 136.2 to, and to repeal and add Section 136 to, the Penal Code, relating to intimidation of witnesses and victims.

[Approved by Governor July 19, 1980 Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 136 of the Penal Code is repealed.

SEC. 2. Section 136 is added to the Penal Code, to read:

136. As used in this chapter:

(1) "Malice" means an intent to vex, annoy, harm, or injure in any way another person, or to thwart or interfere in any manner with the orderly administration of justice.

(2) "Witness" means any natural person, (i) having knowledge of the existence or nonexistence of facts relating to any crime, or (ii) whose declaration under oath is received or has been received as evidence for any purpose, or (iii) who has reported any crime to any peace officer, prosecutor, probation or parole officer, correctional officer or judicial officer, or (iv) who has been served with a subpoena issued under the authority of any court in the state, or of any other state or of the United States, or (v) who would be believed by any reasonable person to be an individual described in subparagraphs (i) to (iv), inclusive.

(3) "Victim" means any natural person with respect to whom there is reason to believe that any crime as defined under the laws of this state or any other state or of the United States is being or has been perpetrated or attempted to be perpetrated.

SEC. 2.1. Section 136.1 is added to the Penal Code, to read:

136.1. (a) Except as provided in subdivision (c), every person who knowingly and maliciously prevents or dissuades or attempts to so prevent or dissuade any witness or victim from attending or giving

testimony at any trial, proceeding, or inquiry authorized by law is guilty of a misdemeanor.

(b) Except as provided in subdivision (c), every person who attempts to prevent or dissuade another person who has been the victim of a crime or who is witness to a crime from doing any of the following is guilty of a misdemeanor:

(1) Making any report of such victimization to any peace officer or state or local law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge.

(2) Causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

(3) Arresting or causing or seeking the arrest of any person in connection with such victimization.

(c) Every person doing any of the acts described in subdivision (a) or (b) knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years under any of the following circumstances:

(1) Where the act is accompanied by force or by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person.

(2) Where the act is in furtherance of a conspiracy.

(3) Where the act is committed by any person who has been convicted of any violation of this section, any predecessor law hereto or any federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this section.

(4) Where the act is committed by any person for pecuniary gain or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

(d) Every person attempting the commission of any act described in subdivisions (a), (b), and (c) is guilty of the offense attempted without regard to success or failure of such attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under this section.

SEC. 2.2. Section 136.2 is added to the Penal Code, to read:

136.2. Upon a good cause belief that intimidation or dissuasion of a victim or witness has occurred or is reasonably likely to occur, any court with jurisdiction over a criminal matter may issue orders including, but not limited to, the following:

(a) An order that a defendant shall not violate any provision of Section 136.1.

(b) An order that a person before the court other than a defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of the court, shall not violate any provisions of Section 136.1.

(c) An order that any person described in this section shall have

no communication whatsoever with any specified witness or any victim, except through an attorney under such reasonable restrictions as the court may impose.

(d) An order calling for a hearing to determine if an order as described in subdivisions (a) to (c), inclusive, should be issued.

(e) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim or a witness or both. Such an order shall not be made without the consent of such agency except for limited and specified periods of time and upon an express finding by the court of a clear and present danger of harm to the victim or witness.

Any person violating any order made pursuant to subdivisions (a) to (e), inclusive, may be punished for any substantive offense described in Section 136.1, or for a contempt of the court making the order. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1. However, any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed upon conviction of an offense described in Section 136.1. Any conviction or acquittal for any substantive offense under Section 136.1 shall be a bar to a subsequent punishment for contempt arising out of the same act.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 687

An act to add Section 1253.5 to the Education Code, relating to county superintendent of schools.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 1253.5 is added to the Education Code, to read:

1253.5. (a) If a unified school district, described in subdivision (c), is subject to Section 1253, the county board of supervisors of each county wherein the district is situated may by agreement and pursuant to an appropriate resolution adopted by each board, permit the voters of the district who lie outside the county housing the

county superintendent of schools who has jurisdiction of the district the right to participate in the election of such county superintendent of schools.

(b) The county clerk or registrar of voters of each county affected by the agreement described in subdivision (a) shall be responsible for the conduct of the election within his or her county.

(c) The provisions of this section shall apply only to a unified school district which was formed on July 1, 1965, and which, as of the 1979–80 school year, maintained an enrollment of between 12,000 and 15,000 pupils.

CHAPTER 688

An act to add and repeal Section 10175.1 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980]

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

SECTION 1. Section 10175.1 is added to the Business and Professions Code, to read:

10175.1. The revocation or suspension of the license of any real estate licensee for a violation involving a conversion of trust funds may be stayed or reduced by the commissioner at any time before the decision becomes effective. The stay or reduction may be conditioned upon compliance with an order of restitution which requires the licensee against whom the decision is rendered to reimburse the person or persons for the funds converted. In such case, the decision shall include findings that the licensee has converted trust funds and shall specify the amount of funds converted. Where restitution is ordered and paid pursuant to the provisions of this section, such amount shall be credited to any subsequent judgment in a civil action based on the same injury.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute deletes or extends such date.

CHAPTER 689

An act to amend Section 53608 of the Government Code, and to amend Section 28818 of the Public Utilities Code, relating to local agencies.

[Approved by Governor July 19, 1980. Filed with Secretary of State July 20, 1980.]

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

SECTION 1. Section 53608 of the Government Code is amended to read:

53608. The legislative body of a local agency may deposit for safekeeping with a federally chartered or state chartered savings and loan association, a trust company or a state or national bank located within this state or with the Federal Reserve Bank of San Francisco or any branch thereof within this state, or with any Federal Reserve bank or with any state or national bank located in any city designated as a reserve city by the Board of Governors of the Federal Reserve System, the bonds, notes, bills, debentures, obligations, certificates of indebtedness, warrants, or other evidences of indebtedness in which the money of the local agency is invested pursuant to this article or pursuant to other legislative authority. The local agency shall take from such financial institution a receipt for securities so deposited. The authority of the legislative body to deposit for safekeeping may be delegated by the legislative body to the treasurer of the local agency; the treasurer shall not be responsible for securities delivered to and receipted for by a financial institution until they are withdrawn from the financial institution by the treasurer.

SEC. 2. Section 28818 of the Public Utilities Code is amended to read:

28818. With the consent of the board, the treasurer may:

(a) Authorize any state or national bank in this state, a federally chartered or state chartered savings and loan association, or a trust company authorized to act as such in this state, to receive as his agent deposits of any securities acquired by the district.

(b) Place and maintain for safekeeping with any state or national bank in this state, a federally chartered or state chartered savings and loan association, or a trust company authorized to act as such in this state, any securities owned by the district.

(c) Make deposits of securities for safekeeping pursuant to the provisions of Section 53608 of the Government Code.

The financial institution selected shall have a total paid-in capital of at least one million dollars ($1,000,000). The treasurer shall take from the financial institution a receipt for the securities, and neither the treasurer nor the district is responsible for the custody and safe return of the securities until they are withdrawn from the financial institution by the treasurer. Any financial institution to which securities are delivered, either as agent or depositary for the treasurer, shall make such disposition of the securities as the treasurer directs and is responsible only for strict compliance with written instructions given to it by the treasurer. All such securities are at all times subject to the order of the treasurer.

CHAPTER 690

An act to amend Section 1812.81 of the Civil Code, relating to health studios.

[Became law without Governor's signature Filed with Secretary of State July 22, 1980]

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

SECTION 1. Section 1812.81 of the Civil Code is amended to read:

1812.81. As used in this title, "contract for health studio services" means a contract for instruction, training or assistance in physical culture, body building, exercising, reducing, figure development, or any other such physical skill, or for the use by an individual patron of the facilities of a health studio, gymnasium or other facility used for any of the above purposes, or for membership in any group, club, association or organization formed for any of the above purposes; but does not include (a) contracts for professional services rendered or furnished by a person licensed under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code, (b) contracts for instruction at schools operating pursuant to the provisions of the Education Code, or (c) contracts for instruction, training, or assistance relating to diet or control of eating habits not involving physical culture, body building, exercising, figure development, or any other such physical skill.

CHAPTER 691

An act to amend Sections 74607 and 74611 of the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State July 23, 1980.]

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

SECTION 1. Section 74607 of the Government Code is amended to read:

74607. The presiding judge of the court may appoint:

(a) Five municipal court clerks IV, each of whom shall receive a monthly salary at a rate specified in range 62.5.

(b) One accounting technician, who shall receive a monthly salary at a rate specified in range 62.0.

(c) Two municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range 61.8.

(d) One account clerk, who shall receive a monthly salary at a rate

specified in range 59.7.

(e) Two municipal court clerks II, each of whom shall receive a monthly salary at a rate specified in range 60.6.

(f) Twenty-three municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range 59.2.

(g) One assistant clerk-administrator, who shall receive a monthly salary at a rate specified in range 66.3.

(h) One data entry operator I, who shall receive a monthly salary specified in range 59.8.

SEC. 2. Section 74611 of the Government Code is amended to read:

74611. Whenever reference to a numbered salary range is made in any section of this article, the following schedule of monthly salaries shall apply:

Range number	1st step	2nd step	3rd step	4th step	5th step
59.0	714	751	789	827	868
59.1	723	757	796	835	877
59.2	730	766	804	844	886
59.3	737	773	811	853	894
59.4	744	780	820	860	903
59.5	751	789	827	868	912
59.6	757	796	835	877	922
59.7	766	804	844	886	931
59.8	773	811	853	894	939
59.9	780	820	860	903	948
60.0	789	827	868	912	959
60.1	796	835	877	922	967
60.2	804	844	886	931	978
60.3	811	853	894	939	986
60.4	820	860	903	948	997
60.5	827	868	912	959	1005
60.6	835	877	922	967	1016
60.7	844	886	931	978	1026
60.8	853	894	939	986	1037
60.9	860	903	948	997	1045
61.0	868	912	959	1005	1056
61.1	877	922	967	1016	1066
61.2	886	931	978	1026	1076
61.3	894	939	986	1037	1089
61.4	903	948	997	1045	1099
61.5	912	959	1005	1056	1109
61.6	922	967	1016	1066	1120
61.7	931	978	1026	1076	1130
61.8	939	986	1037	1089	1142
61.9	948	997	1045	1099	1153

62.0	959	1005	1056	1109	1165
62.1	967	1016	1066	1120	1175
62.2	978	1026	1076	1130	1187
62.3	986	1037	1089	1142	1199
62.4	997	1045	1099	1153	1212
62.5	1005	1056	1109	1165	1222
62.6	1016	1066	1120	1175	1234
62.7	1026	1076	1130	1187	1246
62.8	1037	1089	1142	1199	1258
62.9	1045	1099	1153	1212	1272
63.0	1056	1109	1165	1222	1284
63.1	1066	1120	1175	1234	1297
63.2	1076	1130	1187	1246	1309
63.3	1089	1142	1199	1258	1323
63.4	1099	1153	1212	1272	1335
63.5	1109	1165	1222	1284	1349
63.6	1120	1175	1234	1297	1361
63.7	1130	1187	1246	1309	1375
63.8	1142	1199	1258	1323	1388
63.9	1153	1212	1272	1335	1402
64.0	1165	1222	1284	1349	1416
64.1	1175	1234	1297	1361	1430
64.2	1187	1246	1309	1375	1444
64.3	1199	1258	1323	1388	1458
64.4	1212	1272	1335	1402	1472
64.5	1222	1284	1349	1416	1485
64.6	1234	1297	1361	1430	1501
64.7	1246	1309	1375	1444	1515
64.8	1258	1323	1388	1458	1531
64.9	1272	1335	1402	1472	1546
65.0	1284	1349	1416	1485	1560
65.1	1297	1361	1430	1501	1576
65.2	1309	1375	1444	1515	1591
65.3	1323	1388	1458	1531	1607
65.4	1335	1402	1472	1546	1622
65.5	1349	1416	1485	1560	1638
65.6	1361	1430	1501	1576	1655
65.7	1375	1444	1515	1591	1671
65.8	1388	1458	1531	1607	1687
65.9	1402	1472	1546	1622	1704
66.0	1416	1485	1560	1638	1721
66.1	1430	1501	1576	1655	1737
66.2	1444	1515	1591	1671	1754
66.3	1458	1531	1607	1687	1771
66.4	1472	1546	1622	1704	1789

66.5	1485	1560	1638	1721	1806
66.6	1501	1576	1655	1737	1823
66.7	1515	1591	1671	1754	1842
66.8	1531	1607	1687	1771	1860
66.9	1546	1622	1704	1789	1879
67.0	1560	1638	1721	1806	1896
67.1	1576	1655	1737	1823	1915
67.2	1591	1671	1754	1842	1934
67.3	1607	1687	1771	1860	1953
67.4	1622	1704	1789	1879	1972
67.5	1638	1721	1806	1896	1992
67.6	1655	1737	1823	1915	2011
67.7	1671	1754	1842	1934	2031
67.8	1687	1771	1860	1953	2050
67.9	1704	1789	1879	1972	2071
68.0	1721	1806	1896	1992	2092
68.1	1737	1823	1915	2011	2111
68.2	1754	1842	1934	2031	2132
68.3	1771	1860	1953	2050	2153
68.4	1789	1879	1972	2071	2175
68.5	1806	1896	1992	2092	2196
68.6	1823	1915	2011	2111	2217
68.7	1842	1934	2031	2132	2239
68.8	1860	1953	2050	2153	2262
68.9	1879	1972	2071	2175	2283
69.0	1896	1992	2092	2196	2305
69.1	1915	2011	2111	2217	2328
69.2	1934	2031	2132	2239	2350
69.3	1953	2050	2153	2262	2375
69.4	1972	2071	2175	2283	2397
69.5	1992	2092	2196	2305	2421
69.6	2011	2111	2217	2328	2444
69.7	2031	2132	2239	2350	2468
69.8	2050	2153	2262	2375	2492
69.9	2071	2175	2283	2397	2517
70.0	2092	2196	2305	2421	2543
70.1	2111	2217	2328	2444	2567
70.2	2132	2239	2350	2468	2591
70.3	2153	2262	2375	2492	2617
70.4	2175	2283	2397	2517	2643
70.5	2196	2305	2421	2543	2669
70.6	2217	2328	2444	2567	2695
70.7	2239	2350	2468	2591	2721
70.8	2262	2375	2492	2617	2749
70.9	2283	2397	2517	2643	2775

71.0	2305	2421	2543	2669	2803
71.1	2328	2444	2567	2695	2830
71.2	2350	2468	2591	2721	2858
71.3	2375	2492	2617	2749	2886
71.4	2397	2517	2643	2775	2914
71.5	2421	2543	2669	2803	2943
71.6	2444	2567	2695	2830	2971
71.7	2468	2591	2721	2858	3000
71.8	2492	2617	2749	2886	3030
71.9	2517	2643	2775	2914	3059
72.0	2543	2669	2803	2943	3090
72.1	2567	2695	2830	2971	3120
72.2	2591	2721	2858	3000	3151
72.3	2617	2749	2886	3030	3182
72.4	2643	2775	2914	3059	3214
72.5	2669	2803	2943	3090	3245
72.6	2695	2830	2971	3120	3276
72.7	2721	2858	3000	3151	3309
72.8	2749	2886	3030	3182	3340
72.9	2775	2914	3059	3214	3373
73.0	2803	2943	3090	3245	3406
73.1	2830	2971	3120	3276	3441
73.2	2858	3000	3151	3309	3474
73.3	2886	3030	3182	3340	3508
73.4	2914	3059	3214	3373	3543
73.5	2943	3090	3245	3406	3578
73.6	2971	3120	3276	3441	3612
73.7	3000	3151	3309	3474	3647
73.8	3030	3182	3340	3508	3683
73.9	3059	3214	3373	3543	3720

In the event the board of supervisors amends the resolution establishing salary ranges and monthly salary rates for the personnel of the County of San Luis Obispo effective on the date of this act, or passes a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for court employees on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such a change is made.

SEC. 3. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act since, as provided for in Section 6(a) of Article XIII B of the California Constitution, this act is requested by the local agency affected. Moreover, there shall be no claim

considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 692

An act to amend Section 9302 of the Commercial Code, and to amend Sections 40710 and 40711 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with Secretary of State July 24, 1980.]

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

SECTION 1. Section 9302 of the Commercial Code is amended to read:

9302. (1) A financing statement must be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under Section 9305;

(b) A security interest temporarily perfected in instruments or documents without delivery under Section 9304 or in proceeds for a 10-day period under Section 9306;

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle or boat required to be registered;

(f) A security interest of a collecting bank (Section 4208) or arising under the division on sales (see Section 9113) or covered in subdivision (3) of this section;

(g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(h) A security interest in a deposit account. Such a security interest is perfected:

(1) As to a deposit account maintained with the secured party when the security agreement is executed;

(2) As to a deposit account not described in subparagraph (1) when notice thereof is given in writing to the organization with whom the deposit account is maintained.

(i) A security interest in or claim in or under any policy of insurance including unearned premiums. Such interest shall be perfected when notice thereof is given in writing to the insurer.

(2) If a secured party assigns a perfected security interest, no

filing under this division is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this division is not necessary or effective to perfect a security interest in property subject to any of the following:

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this division for filing of the security interest.

(b) The provisions of the Vehicle Code which require registration of a vehicle or boat; but during any period in which collateral is inventory, the filing provisions of this division (Chapter 4) apply to a security interest in that collateral.

(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subdivision (2) of Section 9103).

(d) The provisions of the Health and Safety Code which require registration of all interests in approved air contaminant emission reductions (Sections 40709 to 40713, inclusive, of the Health and Safety Code).

(4) Compliance with a statute or treaty described in subdivision (3) is equivalent to the filing of a financing statement under this division and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in Section 9103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this division.

SEC. 1.5. Section 9302 of the Commercial Code is amended to read:

9302. (1) A financing statement must be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under Section 9305;

(b) A security interest temporarily perfected in instruments or documents without delivery under Section 9304 or in proceeds for a 10-day period under Section 9306;

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle or boat required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in Section 9313;

(f) A security interest of a collecting bank (Section 4208) or arising under the division on sales (see Section 9113) or covered in subdivision (3) of this section;

(g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(h) A security interest in a deposit account. Such a security interest is perfected:

(1) As to a deposit account maintained with the secured party when the security agreement is executed;

(2) As to a deposit account not described in subparagraph (1) when notice thereof is given in writing to the organization with whom the deposit account is maintained.

(i) A security interest in or claim in or under any policy of insurance including unearned premiums. Such interest shall be perfected when notice thereof is given in writing to the insurer.

(2) If a secured party assigns a perfected security interest, no filing under this division is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this division is not necessary or effective to perfect a security interest in property subject to any of the following:

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this division for filing of the security interest.

(b) The provisions of the Vehicle Code which require registration of a vehicle or boat; but during any period in which collateral is inventory, the filing provisions of this division (Chapter 4) apply to a security interest in that collateral.

(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subdivision (2) of Section 9103).

(d) The provisions of the Health and Safety Code which require registration of all interests in approved air contaminant reductions (Sections 40709 to 40713, inclusive, of the Health and Safety Code).

(4) Compliance with a statute or treaty described in subdivision (3) is equivalent to the filing of a financing statement under this division and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in Section 9103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this division.

SEC. 2. Section 40710 of the Health and Safety Code is amended to read:

40710. Upon receipt of approval and pursuant to Section 40709, a certificate evidencing all approved reductions in the emissions of air contaminants shall be issued to the owner or owners of the emissions source, and such reductions shall continue to be banked until they

have been used according to district regulations. The owner or owners of such approved reductions have the exclusive right to use them and to authorize their use. Certificates evidencing ownership of approved reductions issued by a district shall not constitute instruments, securities, or any other form of property.

SEC. 3. Section 40711 of the Health and Safety Code is amended to read:

40711. (a) A banking system established pursuant to Section 40709 shall provide for registration of all interests in approved emission reductions. The registry shall be maintained by the district and open to public inspection. Upon payment of any required filing fee, and receipt of the documents required in subdivision (b), the district shall promptly register all interests in approved emission reductions and issue a certificate evidencing such ownership. The district may adopt by rule or regulation a schedule of fees for the issuance of certificates to cover the cost of confirming emission reductions and operating an emission reduction registry.

(b) Approved emission reductions may be transferred in whole or in part by written conveyance or by operation of law from one person to another. A sale, option, pledge, or other voluntary transfer of approved emission reductions shall be enforceable against third parties provided a copy of the written conveyance or a memorandum describing the transaction, signed by the transferor, is filed with the district. An involuntary transfer of approved emission reductions shall be enforceable against third parties provided the transferee files with the district a certified copy of the document effecting such transfer or a memorandum describing the nature of such transfer. Notwithstanding any other provision of law, conflicting interests in approved emission reductions shall rank in priority according to the time of filing with the district.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 3367 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 9302 of the Commercial Code, and this bill is chaptered after Assembly Bill 3367, that Section 9302 of the Commercial Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 3367, and that on the effective date of Assembly Bill 3367, Section 9302 of the Commercial Code, as amended by Section 1 of this act, be further amended in the form set forth in Section 1.5 of this act to incorporate the changes in Section 9302 proposed by Assembly Bill 3367. Therefore, if this bill and Assembly Bill 3367 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3367 is chaptered before this bill and amends Section 9302, Section 1.5 of this act shall become operative on the effective date of Assembly Bill 3367.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to ensure that the registry of banked reductions in the emission of air contaminants accurately reflects the state of the title of the use of approved emission reductions, it is necessary that this act take effect immediately.

CHAPTER 693

An act to add and repeal Chapter 7 (commencing with Section 470) of Division 1 of the Water Code, and to add and repeal Section 17052.8 of the Revenue and Taxation Code, relating to water conservation.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Chapter 7 (commencing with Section 470) is added to Division 1 of the Water Code, to read:

CHAPTER 7. INCLUSION OF CISTERNS IN NEW AND EXISTING STRUCTURES

470. It is the intent of this chapter to establish a demonstration program to promote the inclusion of cisterns in new or existing structures for the purpose of insuring that the limited available supplies of water in this state will be put to beneficial use to the fullest extent of which they are capable.

471. The program established pursuant to this chapter shall be administered by the department consistent with the provisions of Section 17052.8 of the Revenue and Taxation Code. Any person may apply to the department for approval of a proposed project for the inclusion of cisterns in new or existing structures, and the department may approve one or more such projects. The department shall adopt rules and regulations necessary to carry out the purposes of this chapter.

472. The department shall report to the Governor and the Legislature not later than June 1, 1981, on the implemention of this chapter, together with recommendations concerning the future implementation of the program.

473. This chapter shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 2. Section 17052.8 is added to the Revenue and Taxation Code, to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)), an amount equal to the amount determined in paragraph (2) or (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges but excluding interest charges and operation expenses) incurred by the taxpayer of any water conservation systems on single-family residences in California which are owned and controlled by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to residences in California which are owned and controlled by the taxpayer, other than single-family dwellings, on which the cost (including installation charges but excluding interest charges) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be the greater amount of three thousand dollars ($3,000) or 25 percent of the cost of the water conservation system.

(4) Condominium owners, who install water conservation systems on such California premises which is owned cooperatively by them, shall be eligible to receive the credit provided by this section, in proportion to the number of households served by the system. .

(5) On or before January 30, 1981, the Department of Water Resources shall, after one or more public hearings, establish guidelines, definitions, and criteria for water conservation systems which shall be eligible for the credit provided by this section. "Water conservation system" means the following:

(A) Rainwater and greywater cisterns. The appropriate uses of such cistern water shall be determined by the Department of Water Resources in conjunction with the State Department of Health Services.

(B) Shower and faucet flow-reducing devices.

(C) Toilet modification or replacement with "low-flush."

(6) The Department of Water Resources shall also prepare a study outlining incentive programs to encourage municipal and local district participation in water conservation, and shall report their findings to the Legislature by June 1, 1981.

(7) Tax credits for rainwater and greywater cisterns shall be restricted as follows:

(A) Cisterns shall be totally dedicated to water conservation uses. Multiple use facilities shall not be eligible.

(B) Cisterns shall not include earthen impoundments.

(C) The owner shall have received approval of the local department of health for any cistern.

(D) Any individual wishing to receive this tax credit for cistern cost shall notify the Department of Water Resources of the plan and location of the cistern being considered.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis.

(d) In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for retirement income provided for in Section 17053, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(f) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(g) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible.

(h) Subject to the dollar limitations provided in paragraphs (2) and (3) of subdivision (a), if a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of water conservation systems, then to the extent such credit is allowed for a water conservation system as defined in this section, the state credit provided by this section shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f)

(i) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. The Franchise Tax Board shall report to the Legislature before January 15, 1983, as to the impact of this act, including the number and amounts of credits, an estimate of the distribution of the credit by income class, distribution of the credit between single-family dwellings and other premises, and the state revenue loss attributable to such credits.

(j) This section shall be in effect with respect to computation of taxes for taxable years ending before January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

CHAPTER 694

An act to add and repeal Section 11011.8 of the Government Code, and to amend Section 118 of the Streets and Highways Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 11011.8 is added to the Government Code, to read:

11011.8. Whenever any land has been declared surplus by the Legislature pursuant to Section 11011 and it is not needed by any state agency or local governmental agency pursuant to Section 11011.1 or any other applicable provision of law, the Director of General Services shall offer in writing, to sell such lands at the appraised value, as determined by the director, to any charitable and educational organization (as described in Sections 214 and 214.5 of the Revenue and Taxation Code for purposes of the welfare tax exemption) located in the capitol area as defined in Section 8160 of the Government Code from which the state gained title to any land by condemnation within the three preceding years. Land may be acquired by an organization pursuant to this section only once, shall be of a reasonable size to carry out the purpose of the organization, and shall be used only for the purpose of the organization, as defined in the original trust of the organization, for a period of 20 years. The offer shall be made not less than 60 days before the land is offered for public sale.

This section shall remain in effect until January 1, 1983, and as of that date is repealed.

SEC. 2. Section 118 of the Streets and Highways Code is amended to read:

118. Whenever the department determines that any real property or interest therein, heretofore or hereafter acquired by the state for highway purposes, is no longer necessary for such purposes, the department shall offer in writing, to sell such lands at the appraised value, as determined by the director, to any charitable and educational organization (as described in Sections 214 and 214.5 of the Revenue and Taxation Code for purposes of the welfare tax exemption) located in the capitol area as defined in Section 8160 of the Government Code from which the state gained title to any land by condemnation within the three preceding years. Land may be acquired by an organization pursuant to this section only once, shall be of a reasonable size to carry out the purposes of the organization, and shall be used only for the purpose of the organization, as defined in the original trust of the organization, for a period of 20 years. The offer shall be made not less than 60 days before the land is offered for public sale. The department shall be able to make such offers in writing until January 1, 1983, and as of that date, is no longer empowered to make such offers.

If no such charitable or educational organization accepts the offer in order to initiate the sale within 60 days, the department may sell, contract to sell, sell by trust deed, or exchange such real property or

interest therein in the manner and upon terms, standards, and conditions established by the commission. The payment period in any such contract of sale or sale by trust deed shall not extend longer than 10 years from the time such contract of sale or trust deed is executed, and any such transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price, except that, in the case of unimproved real property sold or exchanged for the purpose of housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the payment period may not exceed 40 years and the downpayment shall be at least 5 percent of the purchase price. All contracts of sale or sales by trust deed, for the purpose of housing for persons and families of low or moderate income shall bear interest. The rate of interest for any such contract or sale shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately preceding the year in which the payment is made. Such contract of sale and sales by trust deeds shall not be utilized if the proposed development or sale qualifies for financing from other sources and if such financing makes feasible the provision of low- and moderate-income housing. Any such conveyance shall be approved by the commission and shall be executed on behalf of the state by the director and the purchase price shall be paid into the State Treasury to the credit of any fund, available to the department for highway purposes, which the commission designates.

Any such real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein needed for state highway purposes.

SEC. 3. The failure to comply with the provisions of this act shall not invalidate any right, title, or interest acquired by a purchaser or encumbrancer for value.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that this needed legislation may take effect at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 695

An act to add Section 5328.15 to the Welfare and Institutions Code, relating to health.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 5328.15 is added to the Welfare and Institutions Code, to read:

5328.15. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed, however, notwithstanding any other provision of law, as follows:

(a) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, as necessary to the performance of their duties to inspect, license, and investigate health facilities and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services shall not contain the name of the patient.

(b) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Mental Health or the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of such board and the records are relevant to such violation. Such information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the patient.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 696

An act to add Article 16 (commencing with Section 33485) to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Article 16 (commencing with Section 33485) is added to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 16. Merger of Project Areas

33485. The Legislature finds and declares that the provisions of this part, which require that taxes allocated pursuant to Section 33670 be applied to the project area in which such taxes are generated, are designed to assure (1) that project areas are terminated when the redevelopment of such areas has been completed and (2) that the increased revenues which result from redevelopment accrue to the benefit of affected taxing jurisdictions at the completion of redevelopment activities in a project area. Although mergers may have the effect of extending the life of redevelopment project areas, such mergers are desirable as a matter of public policy if they result in substantial benefit to the public and if they contribute to the revitalization of blighted areas through the increased economic vitality of such areas and through increased and improved housing opportunities in or near such areas. The Legislature further finds and declares that it is necessary to enact a statute which sets out uniform statewide standards for merger of project areas to assure that such mergers serve a vital public purpose.

33486. (a) For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of a redevelopment agency for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360), may be merged, without regard to contiguity of such areas, by the amendment of each affected

redevelopment plan as provided in Article 12 (commencing with Section 33450). Except as provided in subdivision (b) of this section, taxes attributable to each project area merged pursuant to this section which are allocated to the redevelopment agency pursuant to Section 33670 may be allocated, as provided in subdivision (b) to the entire merged project area for the purpose of paying the principal of, and interest on, indebtedness incurred by the redevelopment agency to finance or refinance, in whole or in part, such merged redevelopment project.

(b) If the redevelopment agency has, prior to merger of redevelopment project areas pursuant to subdivision (a), incurred any indebtedness on account of a constituent project area so merged, taxes attributable to that area which are allocated to the agency pursuant to Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from the constituent project area.

(c) In connection with any amendment which proposes merger of redevelopment project areas pursuant to subdivision (a), the county or any affected taxing entity may call for the creation of a fiscal review committee as provided for in Article 4 (commencing with Section 33330).

(d) After merger of redevelopment projects pursuant to subdivision (a), the clerk of the legislative body shall transmit a copy of the ordinance amending the plans for projects to be merged to the governing body of each of the taxing agencies which levies taxes upon any property in the project.

33487. (a) Subject to the provisions of subdivisions (a) and (b) of Section 33486, not less than 20 percent of all taxes which are allocated to the redevelopment agency pursuant to Section 33670 for redevelopment projects merged pursuant to this article, irrespective of the date of adoption of the final redevelopment plans shall be deposited by the agency in the Low and Moderate Income Housing Fund established pursuant to Section 33334.3, or which shall be established for purposes of this section. The agency shall use the moneys in such fund to assist in the construction or rehabilitation of housing units which will be available to, or occupied by, persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, for a period of not less than 30 years. For the purposes of this subdivision, "construction and rehabilitation" shall include acquisition of land, improvements to land; the acquisition, rehabilitation, or construction of structures; or the provision of subsidies necessary to provide housing for persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105.

(b) The agency may use the funds set aside by subdivision (a) inside or outside the project area. However, the agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project.

Such determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is of benefit to a project.

The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(c) If moneys deposited in the Low and Moderate Income Housing Fund pursuant to this section have not been committed for the purposes specified in subdivisions (a) and (b) for a period of six years following deposit in that fund, the agency shall offer such moneys to the housing authority which operates within the jurisdiction of the agency, if activated pursuant to Section 34240, for the purpose of constructing or rehabilitating housing as provided in subdivisions (a) and (b). However, if no housing authority operates within the jurisdiction of the agency, the agency may retain such moneys for use pursuant to this section.

(d) If the agency deposits less than 20 percent of taxes allocated pursuant to Section 33670, due to the provisions of subdivisions (a) and (b) of Section 33486, in any fiscal year, a deficit shall be created in the Low and Moderate Income Housing Fund in an amount equal to the difference between 20 percent of the taxes allocated pursuant to Section 33670 and the amount deposited in such year. The deficit, if any, created pursuant to this section constitutes an indebtedness of the project. The agency shall eliminate the deficit by expending taxes allocated in years subsequent to creation of the deficit and, until such time as such deficit has been eliminated, an agency shall not incur new obligations for purposes other than those set forth in Section 33487 except to comply with the terms of any resolution or other agreement pledging taxes allocated pursuant to Section 33670 which existed on the date of merger pursuant to this article.

(e) Notwithstanding subdivision (d) of Section 33413, any agency which merges its redevelopment project areas pursuant to this article shall be subject to the provisions of subdivisions (a) and (c) of Section 33413.

33488. Prior to merging project areas pursuant to Section 33486, a redevelopment agency shall notify the department of its intention to merge its project areas, which shall occur no later than 30 days prior to adoption of the ordinance which provides for merger.

33489. (a) Except as provided in subdivision (b), this article shall be exclusive authority for merger of redevelopment project areas on and after January 1, 1981. However, project areas merged prior to January 1, 1981, pursuant to other provisions of this chapter shall continue to be governed by such provisions.

(b) If Assembly Bill No. 3300 of the 1979–80 Regular Session is chaptered and becomes effective and adds Article 14.5 (commencing with Section 33478) to this chapter relating to the merger of project areas within the City of Richmond, any such project merger within the City of Richmond may be conducted

either under this article or alternatively pursuant to the provisions of Article 14.5 (commencing with Section 33478).

CHAPTER 697

An act to amend Section 1158 of the Evidence Code, relating to records.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 1158 of the Evidence Code is amended to read:

1158. Whenever, prior to the filing of any action or the appearance of a defendant in an action, an attorney at law presents a written authorization therefor signed by an adult patient, by the guardian or conservator of his person or estate, or, in the case of a minor, by a parent or guardian of such minor, or by the personal representative or an heir of a deceased patient, or a copy thereof, a physician and surgeon, dentist, registered nurse, dispensing optician, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, or pharmacist or pharmacy, duly licensed as such under the laws of the state, or a licensed hospital, shall make all of the patient's records under his or its custody or control available for inspection and copying by such attorney at law or his representative, promptly upon the presentation of the written authorization.

Failure to make such records available, during business hours, within five days after the presentation of the written authorization, may subject the person or entity having custody or control of the records to liability for all reasonable expenses, including attorney's fees, incurred in any proceeding to enforce the provisions of this section.

All reasonable costs incurred by any person or entity enumerated above in making patient records available pursuant to this section may be charged against the person whose written authorization required the availability of such records. "Reasonable cost" as used in this paragraph means actual copying costs, not to exceed ten cents ($0.10) per page, plus any additional reasonable clerical costs incurred in locating and making the records available. Such additional clerical costs shall be based on a computation of the time spent locating and making the records available multiplied by the employee's hourly wage.

CHAPTER 698

An act to add Sections 21148, 21149, and 21149.5 to the Business and Professions Code, relating to petroleum franchises.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 21148 is added to the Business and Professions Code, to read:

21148. (a) Notwithstanding the terms of any franchise, a franchisor may not withhold its consent to the sale, transfer, or assignment of the franchise by the franchisee to another person unless the franchisor demonstrates any of the following:

(1) The proposed purchaser of the franchise has less business experience and training than that normally required by the franchisor of prospective franchisees.

(2) The proposed purchaser of the franchise has less financial resources than that normally required by the franchisor of prospective franchisees.

(3) The proposed purchaser of the franchise does not satisfy the then-current uniformly applied requirements, if any, of the franchisor applicable to prospective franchisees.

(4) The proposed purchaser of the franchise operates a franchise under an agreement with a franchisor other than the franchisor to whom the sale, transfer, or assignment is proposed, if the then-current uniformly applied requirements, if any, of the franchisor precludes prospective franchisees from operating a franchise under an agreement with another franchisor.

(5) The franchisee has not offered in writing to sell, transfer, or assign the franchise to the franchisor on terms and conditions which are the same as those of the sale, transfer, or assignment of the franchise to the proposed purchaser; and the franchisee has not allowed the franchisor at least 30 days in which to either accept or decline the franchisee's written offer, prior to the sale, transfer, or assignment of the franchise to the proposed purchaser.

(b) If the franchisor consents to the sale, transfer, or assignment of the franchise to a prospective purchaser, the franchisor may require the franchisee to pay a transfer fee to the franchisor, provided the amount of the fee is reasonable when compared to the sale price of the franchise and provided the fee is not required in an effort to frustrate the proposed sale.

SEC. 2. Section 21149 is added to the Business and Professions Code, to read:

21149. Notwithstanding the terms of any franchise, the franchisor may not prohibit or prevent the sale, transfer, or assignment of the franchise to a corporation if both of the following conditions are

satisfied:

(a) The franchisee has a controlling interest in the corporation.

(b) The franchisee offers in writing to personally guarantee the corporation's performance of its obligations under the franchise.

SEC. 3. Section 21149.5 is added to the Business and Professions Code, to read:

21149.5. Notwithstanding Sections 21148 and 21149, a franchisor may reasonably withhold consent to the sale, transfer, or assignment of a franchise if, as a result of the transaction, trade in the sale of petroleum products will be restrained. Trade in the sale of petroleum products is presumed to be restrained as a result of the transaction if the purchaser will sell on the average more than 5 percent of the petroleum products sold in the county in which the premises to be operated by the purchaser are located , or more than 10 percent of the petroleum products sold under the franchisor's trademark, trade name, or logo in the county in which the premises to be operated by the proposed purchaser are located.

SEC. 4. Any terms of a franchise entered into on or after the effective date of this act which conflict with the provisions of this act shall be void and unenforceable. This act shall not apply to a franchise entered into before the effective date of this act.

CHAPTER 699

An act to amend Sections 1213 and 1216 of the Penal Code, relating to commitments.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 1213 of the Penal Code is amended to read:

1213. When a probationary order or a judgment, other than of death, has been pronounced, a copy of the entry of that portion of the probationary order ordering the defendant confined in a city or county jail as a condition of probation, or a copy of the entry of the judgment, or, if the judgment is for imprisonment in a state prison, either a copy of the minute order or an abstract of the judgment as provided in Section 1213.5, certified by the clerk of the court, or by the judge if there is no clerk, shall be forthwith furnished to the officer whose duty it is to execute the probationary order or judgment, and no other warrant or authority is necessary to justify or require its execution.

If a copy of the minute order is used as the commitment document, the first page or pages shall be identical in form and content to that prescribed by the Judicial Council for an abstract of judgment, and such other matters as appropriate may be added thereafter.

SEC. 2. Section 1216 of the Penal Code is amended to read:

1216. If the judgment is for imprisonment in the state prison, the sheriff of the county shall, upon receipt of a certified abstract or minute order thereof, take and deliver the defendant to the warden of the state prison. He shall also deliver to the warden the certified abstract of the judgment or minute order, and take from the warden a receipt for the defendant.

CHAPTER 700

An act to amend Section 37922 of the Health and Safety Code, relating to housing.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Section 37922 of the Health and Safety Code is amended to read:

37922. Prior to the issuance of any bonds or bond anticipation notes of the local agency for residential rehabilitation, the local agency shall by ordinance or resolution adopt a comprehensive residential rehabilitation financing program which shall include, but is not limited to, the following items:

(a) Criteria for selection of residential rehabilitation areas by the local agency which shall include findings by the local agency that:

(1) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(2) Financial assistance from the local agency for residential rehabilitation is necessary to arrest the deterioration of the area.

(3) Financing of residential rehabilitation in the area is economically feasible.

However, these findings are not required when the residential rehabilitation area is a redevelopment project area that the provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24) apply to.

(b) Procedures for selection of residential rehabilitation areas by the local agency which shall include:

(1) Provisions for citizen participation in selection of residential rehabilitation areas.

(2) Provisions for a public hearing by the governing body of the local agency prior to selection of any particular residential rehabilitation area by the local agency.

(c) A commitment that, subject to budgeting and fiscal limitations of the local agency, rehabilitation standards will be enforced in 95 percent of the residences in each residential rehabilitation area.

(d) Guidelines for financing rehabilitation of existing residences, which shall be subject to the following limitations:

(1) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 95 percent of the anticipated after-rehabilitation value of the property if such loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan. Outstanding loans on property to be rehabilitated may be authorized up to 97 percent of the anticipated after-rehabilitation value of the property, if the person to whom the loan is made is of low income, as defined in Section 50093. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding either 98 or 100 percent of the estimated after-rehabilitation value or of its total development cost, according to the standards for nonprofit housing sponsors set forth in Section 50958, if the dwelling units within the residence rehabilitated with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for such residential rehabilitation loans shall be 40 years or four-fifths of the economic life of the structure, whichever is less.

(3) Except as authorized in this paragraph, the maximum amount loaned for rehabilitation, exclusive of costs of acquisition, or exclusive of refinancing, for each dwelling unit and for each commercial unit which is, or is part of, a "residence" within the meaning of that term as defined in this part, shall be forty-five thousand dollars ($45,000). Financing provided pursuant to this part by the redevelopment agency of a city and county may exceed such limitation with respect to loans for rehabilitation of one-to-four unit dwellings, provided the total amount financed, including any amount loaned for acquisition or refinancing, shall not exceed eighty thousand dollars ($80,000) per dwelling unit or 90 percent of the after-rehabilitation value specified in paragraph (1), whichever is less, regardless of whether the loan is or is not insured or guaranteed.

(4) No more than 20 percent of any loan for such residential rehabilitation shall be used for residential rehabilitation which is not required under the local agency's rehabilitation standards except

that in the case of owner-occupied one- to four-dwelling-unit properties, up to 40 percent of the loan for such residential rehabilitation may be used for residential rehabilitation not required under the local agency's rehabilitation standards.

(5) Loans shall not be made for the purpose of refinancing the outstanding indebtedness of a participating party with respect to property which is subject to residential rehabilitation or for financing the acquisition of property which has been, or is to be, subject to residential rehabilitation, unless the cost, including in such costs any amounts previously expended for residential rehabilitation of that property by a participating party, within a residential rehabilitation area or a redevelopment project area established at the time of such expenditure, of meeting the rehabilitation standards is at least 20 percent of the principal amount of the loan.

(e) Guidelines for financing residential infill construction within any residential rehabilitation area which is approved for such a program by the legislative body. The guidelines for residential infill construction shall be subject to the following limitations:

(1) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property, including the amount of the loans for residential infill construction, shall not exceed 80 percent of the anticipated value of the property, following completion of the construction, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the anticipated value of the property following completion of the construction, if such loans are made for the purpose of constructing residences containing two or more dwelling units. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding 100 percent of the estimated value of the property following completion of construction, if the dwelling units constructed with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for loans for residential infill construction shall be 40 years or four-fifths of the economic life of the structure, whichever is less.

(f) Guidelines for financing the purchase of residences previously rehabilitated or constructed with financing under this part, if authorized by the legislative body, which shall be subject to the following limitations:

(1) Purchasers of single-family dwellings eligible to receive such financing shall be persons or families of low or moderate income.

(2) All rental dwelling units in the residence financed shall be

committed for the period during which the loan is outstanding for occupancy by persons and families of low or moderate income, as defined by Section 50093. Upon recordation of the deed, other instrument of conveyance, lease, or instrument of financing in the office of the county recorder of the county in which the real property is located, the rental dwelling units reserved for occupancy by persons of low income shall remain for such occupancy for not less than 30, nor more than 55, years. Such recorded agreement shall be binding upon successors in interest.

(3) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property to be acquired shall not exceed 80 percent of the value of the property, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the value of the property if such loans are made for the purpose of financing residences containing two or more dwelling units A nonprofit corporation incorporated pursuant to, or otherwise made subject to the provisions of, Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding 100 percent of the value of the property, if the dwelling units within the residence are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(4) The maximum repayment period for acquisition loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(g) No more than 35 percent of the aggregate principal amount of all loans made in a residential rehabilitation area may be for residential infill construction or acquisition financing.

(h) A requirement that a plan for public improvements necessary to successful rehabilitation of the residential rehabilitation area be developed, with citizen participation, for each residential rehabilitation area and that the plan for public improvements be adopted by the local agency prior to the financing of residential rehabilitation in any residential rehabilitation area, together with a commitment that, subject to budgetary and fiscal limitations, such plan will be carried out by the local agency.

CHAPTER 701

An act to amend Section 86 of the Military and Veterans Code, relating to veterans.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 86 of the Military and Veterans Code is amended to read:

86. Any person deeming himself a veteran and who applies for benefits may appeal any decision made by a division of the department to the California Veterans Board. Upon receipt of such an appeal, the board shall grant a hearing, if requested, and shall render its decision in writing to the appellant not later than the second meeting of the board following the receipt of the appeal or of the hearing if one is held. An appeal shall be deemed to have been received by the board on the date of the first meeting of the board subsequent to delivery of the appeal to the secretary of the board. Except for judicial review, the board's decision is final and the board shall have the power to change or modify with good cause any decision which is adverse to the appellant. The board may delegate the holding of hearings to the legal officer. Hearings shall be held in the department office nearest to the appellant's home unless the appellant requests otherwise.

CHAPTER 702

An act to amend Section 987.65 of, and to add Sections 987.657 and 1001.7 to, the Military and Veterans Code, relating to veterans' farm and home purchases, and making an appropriation therefor.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 987.65 of the Military and Veterans Code is amended to read:

987.65. The purchase price of a home to the department or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements shall not exceed the sum of fifty-five thousand dollars ($55,000), except that the purchase price of a mobilehome sited on a lot owned by the purchaser shall not exceed fifty-five thousand dollars ($55,000), or of a mobilehome which is to be sited in a mobilehome park as defined

in Section 18214 of the Health and Safety Code shall not exceed thirty-five thousand dollars ($35,000) and a veteran purchasing the home may advance, subject to Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 987.69 to add to the purchase price of the home in fixing the selling price thereof to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred eighty thousand dollars ($180,000), and a veteran purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 987.69 to add to such purchase or contract price to the department in fixing the selling price of the farm to the veteran.

SEC. 2. Section 987.657 is added to the Military and Veterans Code, to read:

987.657. Whenever the department purchases any mobilehome for sale to a veteran pursuant to this article, the seller shall pay, or the department shall deduct from the purchase price thereof, the sum of seventy-five dollars ($75) to pay the costs of final inspection by the department. The department shall complete its inspection within seven days of its receipt of a certificate of occupancy covering the mobilehome.

SEC. 3. Section 1001.7 is added to the Military and Veterans Code, to read:

1001.7. In addition to the debentures authorized by Section 1001.1, the department may issue additional debentures not to exceed five hundred million dollars ($500,000,000) in the aggregate, at such times and in such amounts as the department, with the approval of the Veterans' Debenture Finance Committee, may determine. The issuance of such debentures shall be authorized by a resolution of issuance adopted as provided in this chapter.

CHAPTER 703

An act to add Section 4850.5 to the Labor Code, relating to workers' compensation.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 4850.5 is added to the Labor Code, to read:

4850.5. Any fireman employed by the County of San Luis Obispo, and the sheriff or any officer or employee of the sheriff's office of the County of San Luis Obispo, shall, upon the adoption of a resolution of the board of supervisors so declaring, be entitled to the benefits of this article, if otherwise entitled to such benefits, even though such employee is not a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3, Government Code).

CHAPTER 704

An act to amend Sections 12340.3, 12401.3, and 12401.5 of the Insurance Code, relating to title insurance.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 12340.3 of the Insurance Code is amended to read:

12340.3. "Business of title insurance" includes:

(a) Issuing or proposing to issue any title policy as insurer, guarantor, or indemnitor;

(b) Transacting or proposing to transact any phase of title insurance, including solicitation, negotiation preliminary to execution, or execution of a title policy, insuring and transacting matters subsequent to the execution of a title policy and arising out of such policy, excluding reinsurance;

(c) The performance by a title insurer, an underwritten title company or a controlled escrow company of any service in conjunction with the issuance or contemplated issuance of a title policy including but not limited to the handling of any escrow, settlement or closing in connection therewith; or the doing of or proposing to do any business, which is in substance the equivalent of any of the above.

(d) The issuance, by a title insurer, of a letter of indemnity. Any such letter of indemnity shall be limited to and issued solely for the purpose of indemnifying the commissioner on behalf of any member of the public who transacts an escrow with an underwritten title company, with whom the title insurer has an underwriting agreement. A title insurer may charge a reasonable fee in connection with the issuance of any such letter. No rate or form filing shall be required with respect to any such letter of indemnity.

SEC. 2. Section 12401.3 of the Insurance Code is amended to read:

12401.3. The following standards shall apply to the making and use of rates pertaining to all the business of title insurance to which the provisions of this article are applicable:

(a) Rates shall not be excessive or inadequate, as herein defined, nor shall they be unfairly discriminatory.

No rate shall be held excessive unless (1) such rate is unreasonably high for the insurance or other services provided, and (2) a reasonable degree of competition does not exist in the particular phase of the business of title insurance to which such rate is applicable.

No rate shall be held to be inadequate unless (1) such rate is unreasonably low for the insurance or other services provided and (2) the continued use of such rate endangers the solvency of the person or entity using the same, or unless (3) such rate is unreasonably low for the insurance or other services provided and the use of such rate by the person or entity using same has, or if continued will have, the effect of destroying competition or creating a monopoly. Provided, however, that no rate or rate classification shall be held to be inadequate for the reason that a rate within a rating classification is less than the cost of the risk and expense elements assigned to smaller insurances within such classification, and the excess of such costs may be charged against larger insurances within such classification without rendering the rate or rate classification unfairly discriminatory.

(b) Consideration shall be given, to the extent applicable, to past and prospective loss experience within and outside this state, to a reasonable margin for profit and contingencies, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other factors, including judgment factors, deemed relevant within and outside this state.

(c) The systems of expense provisions included in the rates for use by any title insurer, underwritten title company, or controlled escrow company may differ from those of other title insurers, underwritten title companies, or controlled escrow companies to reflect the operating methods of any such person or entity with respect to any kind of insurance, or other service, or with respect to any combination thereof.

(d) For the establishment of rates, risks and services in the business of title insurance may be grouped by classifications into the various types of title policies or services offered. Such classifications may be further divided to produce rates for individual risks or services within a classification. . Such classifications or further divisions thereof may be established based upon any one or more of the following: (1) the size of a transaction and its effect upon the continuing solvency of the person or entity using the rate in question if a loss should occur; (2) expense elements, including the management time that would ordinarily be expended in a typical

transaction of a particular size; (3) the geographic location of a transaction, including variations in risk and expense elements attributable thereto; (4) the individual experience of the person or entity using the rate in question; and (5) any other reasonable considerations. Such classifications or further divisions thereof shall apply to all risks and services in the business of title insurance under the same or under substantially the same circumstances or conditions.

SEC. 3. Section 12401.5 of the Insurance Code is amended to read:

12401.5. As a further aid to uniform administration of rate regulatory laws of this state, the commissioner may prescribe by reasonable rules and regulations:

(a) For the annual reporting of financial data relating to the aggregate economic performance of all title insurance entities conducting the business of title insurance in this state. Such data, if required, shall be for the purpose of determining the industry financial experience for the reporting year and shall reflect the after-tax rate of return on total capital, including investment income and realized and unrealized capital gains, from whatever source attributable to operations in this state.

(b) A statistical plan, reasonably adapted to each of the rating classifications in use within the state. Any such plan may be modified from time to time and shall be used thereafter by each title insurer in the reporting of data required by such plan, in order that the experience of all title insurance may be made available on an annual basis in such form and detail as may be necessary to aid the commissioner in determining whether rating classifications comply with the standards set forth in this chapter. In promulgating such plan, the commissioner may give due consideration to the rating classifications in use and, in order that such plan may be as uniform as is practicable among the several states, to the rules and to the form of the plan used for such rating classifications in other states. No title insurer shall be required to record or report data on a classification basis that is inconsistent with the rating classification in use by it. The commissioner shall designate one or more advisory organizations to assist in the development of any such statistical plan and to further assist in gathering data and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to title insurers and advisory organizations. No statistical plan or modifications thereto, nor rules or regulations pertaining thereto, shall be adopted or implemented absent compliance with the provisions of Article 5 (commencing with Section 11346) of the Government Code, except that any such plan, rule, or regulation shall not become effective for a period of 120 days following its adoption, and any such plan, rule, or regulation shall be deemed to be a regulation required to be filed with the Secretary of State for purposes of Article 5 (commencing with Section 11346) of the Government Code.

CHAPTER 705

An act to amend Sections 61621.2, 61621.4, 61765.3, 61765.4, 61765.5, and 61765.6 of the Government Code, relating to community services districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 61621.2 of the Government Code is amended to read:

61621.2. A district may elect to have any, or all, rates or charges for any purposes, or any delinquencies for street lighting purposes, collected on the tax roll in any forthcoming fiscal year in the same manner, by the same persons, and at the time as, together with and not separately from, its general taxes in the manner prescribed in Sections 61765.2 to 61765.6, inclusive, of this code. In such event, the district shall cause a written report to be prepared and filed by the secretary, which report shall contain a description of each parcel of real property and the amount of the rates or charges for any purposes, or the amount of any delinquencies for street lighting purposes, for each parcel for the year.

SEC. 2. Section 61621.4 of the Government Code is amended to read:

61621.4. A district which elects to have any, or all, rates or charges for any purposes, or any delinquencies for street lighting purposes, collected on the tax roll pursuant to the provisions of Section 61621.2, or to establish a lien for service charges for street lighting purposes pursuant to the provisions of Section 61621.3, shall reimburse the county for the expenses the county may reasonably incur as a result of the obligations created pursuant to such sections.

SEC. 3. Section 61765.3 of the Government Code is amended to read:

61765.3. At the time stated in the notice, the board shall hear and consider all objections or protests, if any, to the report referred to in the notice and may continue the hearing from time to time. Upon the conclusion of the hearing, the board may adopt, revise, change, reduce, or modify an assessment, or any charges for any purposes, or any delinquencies for street lighting purposes, or overrule any or all objections. The board shall make its determination upon each assessment, or each charge or each delinquency for street lighting purposes, as described in the report, which determination shall be final. The board may make appropriate adjustments that may be necessary as a result of the equalization of the assessment roll subsequent to the filing of the report.

SEC. 4. Section 61765.4 of the Government Code is amended to

read:

61765.4. On or before the 10th day of August of each year following such final determination, the secretary shall file with the county auditor a copy of the report with a statement endorsed thereon over the secretary's signature that it has been finally adopted by the board and the auditor shall enter the amount of the assessments or the charges against the respective lots or parcels of land as they appear on the current assessment roll. If the property is not described on the roll, the auditor may enter the description thereon together with the amounts of the assessments, the charges for any purposes, or the delinquencies for street lighting purposes, as shown in the report.

SEC. 5. Section 61765.5 of the Government Code is amended to read:

61765.5. The amount of the assessments or the charges shall constitute a lien against the lot or parcel of land against which the assessment or the charge has been imposed as of 12:01 a.m. on the first day of March immediately preceding the date of levy.

SEC. 6. Section 61765.6 of the Government Code is amended to read:

61765.6. The county tax collector shall include the amounts of the assessment, the charges for any purpose, or the delinquencies for street lighting purposes on bills for taxes levied against the respective lots and parcels of land. Thereafter the amount of the assessments, the charges, or the delinquencies for street lighting purposes shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the district, and shall be delinquent at the same time and thereafter be subject to the same delinquency penalties. All laws applicable to the levy, collection, and enforcement of general taxes of the district, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, and redemption, are applicable to such assessments, such charges, or such delinquencies for street lighting purposes. However, if for the first year such charge is levied, the real property to which such charge relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes appear on the roll, then the charge, or the delinquency for street lighting purposes, assessed pursuant to this section shall not result in a lien against such property, but instead shall be transferred to the unsecured roll for collection.

SEC. 7. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

SEC. 8. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the assessment collection procedure provided by this bill to be used in the 1980–81 fiscal year, and in order to effect the administrative cost reductions possible through this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 706

An act to amend Section 2945.1 of the Civil Code, relating to mortgage foreclosure consultants.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 2945.1 of the Civil Code is amended to read:

2945.1. The following definitions apply to this chapter:

(a) "Foreclosure consultant" means any person who makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which such person in any manner represents will in any manner do any of the following:

(1) Stop or postpone the foreclosure sale.

(2) Obtain any forbearance from any beneficiary or mortgagee.

(3) Assist the owner to exercise the right of reinstatement provided in Section 2924c.

(4) Obtain any extension of the period within which the owner may reinstate his obligation.

(5) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained in any such deed of trust or mortgage.

(6) Assist the owner to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale.

(8) Save such owner's residence from foreclosure.

(b) A foreclosure consultant does not include any of the following:

(1) A person licensed to practice law in this state when such person renders service in the course of his practice as an attorney at law.

(2) A person licensed under Division 3 (commencing with Section 12000) of the Financial Code when such person is acting as a prorater as defined therein.

(3) A person licensed under Part 1 (commencing with Section

10000) of Division 4 of the Business and Professions Code when such person makes a direct loan or when such person (A) engages in acts whose performance requires licensure under such part, (B) is entitled to compensation for such acts performed in connection with the sale of a residence in foreclosure or with the arranging of a loan secured by a lien on a residence in foreclosure, (C) does not claim, demand, charge, collect, or receive any compensation until such acts have been performed or cannot be performed because of an owner's failure to make the disclosures set forth in Section 10243 of the Business and Professions Code or failure to accept an offer from a purchaser or lender ready, willing, and able to purchase a residence in foreclosure or make a loan secured by a lien on a residence in foreclosure on the terms prescribed in a listing or a loan agreement, and (D) does not acquire any interest in a residence in foreclosure directly from an owner for whom such person agreed to perform such acts other than as a trustee or beneficiary under a deed of trust given to secure the payment of a loan or such compensation. For the purposes of this paragraph, a "direct loan" means a loan of a real estate broker's own funds secured by a deed of trust on the residence in foreclosure, which loan and deed of trust the broker in good faith attempts to assign to a lender, for an amount at least sufficient to cure all of the defaults on obligations which are then subject to a recorded notice of default, provided that, if a foreclosure sale is conducted with respect to such deed of trust, the person conducting such foreclosure sale has no interest in the residence in foreclosure or in the outcome of the sale and is not owned, controlled, or managed by the lending broker; the lending broker does not acquire any interest in the residence in foreclosure directly from the owner other than as a beneficiary under the deed of trust; and the loan is not made for the purpose or effect of avoiding or evading the provisions of this article.

(4) A person licensed under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code when such person is acting in any capacity for which such person is licensed under such part.

(5) A person or his authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services.

(6) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure when such person performs services in connection with this obligation or lien.

(7) Any person licensed to make loans pursuant to Division 9 (commencing with Section 22000) of the Financial Code, subject to the authority of the Commissioner of Corporations to terminate this exclusion, after notice and hearing, for any person licensed pursuant to such division upon a finding that such licensee is found to have engaged in practices described in subdivision (a) of Section 2945.

(c) "Person" means any individual, partnership, corporation,

association or other group, however organized.

(d) "Service" means and includes, but is not limited to, any of the following:

(1) Debt, budget, or financial counseling of any type.

(2) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure.

(3) Contacting creditors on behalf of an owner of a residence in foreclosure.

(4) Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure his default and reinstate his obligation pursuant to Section 2924c.

(5) Arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure.

(6) Advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court.

(7) Giving any advice, explanation or instruction to an owner of a residence in foreclosure which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of such an obligation, or the postponement or avoidance of a sale of a residence in foreclosure pursuant to a power of sale contained in any deed of trust.

(e) "Residence in foreclosure" means a residence, including all land appurtenant and improvements thereto, consisting of one- to four-family units one of which the owner occupies as his personal residence, that is the subject of a Notice of a Default recorded pursuant to Article 1 (commencing with Section 2920) of Chapter 2 of Title 14 of Part 4 of Division 3.

(f) "Owner" means an owner of a residence in foreclosure.

(g) "Contract" means any agreement, or any term thereof, between a foreclosure consultant and an owner for the rendition of any service as defined in subdivision (c).

SEC. 2. Section 2945.1 of the Civil Code is amended to read:

2945.1. The following definitions apply to this chapter:

(a) "Foreclosure consultant" means any person who makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which such person in any manner represents will in any manner do any of the following:

(1) Stop or postpone the foreclosure sale.

(2) Obtain any forbearance from any beneficiary or mortgagee.

(3) Assist the owner to exercise the right of reinstatement provided in Section 2924c.

(4) Obtain any extension of the period within which the owner may reinstate his obligation.

(5) Obtain any waiver of an acceleration clause contained in any

promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained in any such deed of trust or mortgage.

(6) Assist the owner to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale.

(8) Save such owner's residence from foreclosure.

(b) A foreclosure consultant does not include any of the following:

(1) A person licensed to practice law in this state when such person renders service in the course of his practice as an attorney at law.

(2) A person licensed under Division 3 (commencing with Section 12000) of the Financial Code when such person is acting as a prorater as defined therein.

(3) A person licensed under Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code when such person makes a direct loan or when such person (A) engages in acts whose performance requires licensure under such part, (B) is entitled to compensation for such acts performed in connection with the sale of a residence in foreclosure or with the arranging of a loan secured by a lien on a residence in foreclosure, (C) does not claim, demand, charge, collect, or receive any compensation until such acts have been performed or cannot be performed because of an owner's failure to make the disclosures set forth in Section 10243 of the Business and Professions Code or failure to accept an offer from a purchaser or lender ready, willing, and able to purchase a residence in foreclosure or make a loan secured by a lien on a residence in foreclosure on the terms prescribed in a listing or a loan agreement, and (D) does not acquire any interest in a residence in foreclosure directly from an owner for whom such person agreed to perform such acts other than as a trustee or beneficiary under a deed of trust given to secure the payment of a loan or such compensation. For the purposes of this paragraph, a "direct loan" means a loan of a real estate broker's own funds secured by a deed of trust on the residence in foreclosure, which loan and deed of trust the broker in good faith attempts to assign to a lender, for an amount at least sufficient to cure all of the defaults on obligations which are then subject to a recorded notice of default, provided that, if a foreclosure sale is conducted with respect to such deed of trust, the person conducting such foreclosure sale has no interest in the residence in foreclosure or in the outcome of the sale and is not owned, controlled, or managed by the lending broker; the lending broker does not acquire any interest in the residence in foreclosure directly from the owner other than as a beneficiary under the deed of trust; and the loan is not made for the purpose or effect of avoiding or evading the provisions of this article.

(4) A person licensed under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code

when such person is acting in any capacity for which such person is licensed under such part.

(5) A person or his authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services.

(6) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure when such person performs services in connection with this obligation or lien.

(7) Any person licensed to make loans pursuant to Division 9 (commencing with Section 22000) of the Financial Code, subject to the authority of the Commissioner of Corporations to terminate this exclusion, after notice and hearing, for any person licensed pursuant to such division upon a finding that such licensee is found to have engaged in practices described in subdivision (a) of Section 2945.

(8) Any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, insurance companies, or any person or entity authorized under the laws of this state to conduct a title or escrow business, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of the above, and any agent or employee of the above while engaged in the business of such persons or entities.

(c) "Person" means any individual, partnership, corporation, association or other group, however organized.

(d) "Service" means and includes, but is not limited to, any of the following:

(1) Debt, budget, or financial counseling of any type.

(2) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure.

(3) Contacting creditors on behalf of an owner of a residence in foreclosure.

(4) Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure his default and reinstate his obligation pursuant to Section 2924c.

(5) Arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure.

(6) Advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court.

(7) Giving any advice, explanation or instruction to an owner of a residence in foreclosure which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of such an obligation, or the postponement or avoidance of a sale of a residence in foreclosure pursuant to a power of sale contained in any deed of

trust.

(e) "Residence in foreclosure" means a residence as defined in Section 1695.1.

(f) "Owner" means a property owner as defined in Section 1695.1.

(g) "Contract" means any agreement, or any term thereof, between a foreclosure consultant and an owner for the rendition of any service as defined in subdivision (c).

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 2475 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 2945.1 of the Civil Code, and this bill is chaptered after Assembly Bill 2475, that Section 2945.1 of the Civil Code, as amended by Section 15 of Assembly Bill 2475, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 2945.1 proposed by this bill. Therefore, if this bill and Assembly Bill 2475 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 2475 is chaptered before this bill and amends Section 2945.1, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 707

An act to amend Section 429.77 of, and to add Sections 1250.3, 1254.2, and 1275.2 to, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 429.77 of the Health and Safety Code is amended to read:

429.77. (a) Pilot projects may be approved in the following fields:

(1) Expanded role medical auxiliaries.

(2) Expanded role nursing.

(3) Expanded role dental auxiliaries.

(4) Maternal child care personnel.

(5) Pharmacy personnel.

(6) Mental health personnel.

(7) The prescribing and dispensing of drugs or devices by registered nurses, physician's assistants, or pharmacists. No pilot project involving such prescription or dispensing by registered nurses, physician's assistants, or pharmacists shall be approved after January 1, 1983, unless it is otherwise within the scope of licensure of such personnel. Prescribing by registered nurses, physician's

assistants, or pharmacists shall be specifically approved or denied as within the scope of any pilot project authorized after January 1, 1978, and until January 1, 1983. If prescribing of drugs or devices is authorized, any excluded drugs or devices shall be specified. No registered nurse, physician's assistant, or pharmacist shall be authorized to prescribe any controlled substances included in Schedule I, II, or III as defined in Section 11054, 11055, or 11056 of this code, or any narcotic drug in Schedule IV or V as defined in Section 11057 or 11058 of this code, or any poison as defined in Section 4160 of the Business and Professions Code. No more than two projects for pharmacists, three projects for physician's assistants, or five projects for registered nurses shall be approved under this paragraph. All statutory and regulatory requirements relating to proper storage, security, recordkeeping, labeling, and otherwise safely handling drugs and devices shall be complied with by any persons authorized to prescribe or dispense drugs or devices pursuant to this paragraph.

Until December 31, 1980, the requirements, conditions, and limitations of this paragraph do not apply to projects for which an application was under review by the office prior to January 1, 1978, and approved prior to January 1, 1979.

(8) Other health care personnel including, but not limited to, veterinary personnel, chiropractic personnel, podiatric personnel, geriatric care personnel, therapy personnel, and health care technicians.

(b) Projects shall be given priority which operate in rural and central city areas.

SEC. 2. Section 1250.3 is added to the Health and Safety Code, to read:

1250.3. (a) As defined in Section 1250, "health facility" includes the following type: "chemical dependency recovery hospital" means a health facility which provides 24-hour inpatient care for ambulatory persons who have a dependency on alcohol or medicinal drugs. Such care shall include, but not be limited to, the following basic services· patient counseling, group therapy, physical conditioning, family therapy, outpatient services, and dietetic services. Each facility shall have a medical director who is a physician and surgeon licensed to practice in this state.

(b) The Legislature finds and declares that problems related to the inappropriate use of alcoholic beverages and medicinal drugs are widespread and adversely affect the general welfare of the people of the State of California. It is the intent of the Legislature that the chemical dependency recovery hospital will provide an innovative inpatient treatment program for persons who have a dependency on alcohol or medicinal drugs. The Legislature further finds and declares that significant cost reductions can be achieved by chemical dependency recovery hospitals when both of the following conditions exist:

(1) Architectural requirements established by the state

department encourage a flexible and open construction approach which significantly reduce capital construction costs.

(2) Programs are designed to provide comprehensive inpatient treatment yet permit substantial flexibility in the use of qualified personnel to meet the specific needs of the patients of the facility.

(c) When a chemical dependency recovery hospital is owned or leased by and located on the same premises or adjacent premises of a general acute care hospital and is under the administrative control thereof, it may, at the option of the general acute care hospital, be included as a supplemental service of the general acute care hospital, and the chemical dependency recovery hospital in such case shall not be licensed separately.

(d) A chemical dependency recovery hospital shall be located in one or more distinct physical structures separate and apart from the physical structure or structures of any other health facility, as defined in Section 1250.

(e) If the chemical dependency recovery hospital is not a supplemental service of a general acute care hosital, it shall have agreements with one or more general acute care hospitals providing for 24-hour emergency service and pharmacy, laboratory, and such other services as the state department may require.

(f) The beds of a chemical dependency recovery hospital shall be used exclusively for alcohol and medicinal drug dependency treatment and shall not, without prior compliance with the health planning laws, be converted to any bed classification specified in Section 1250.1. However, nothing in this subdivision precludes a general acute care hospital operating a supplemental service as provided in subdivision (c) from temporarily or permanently using beds in any classification specified in Section 1250.1 for the treatment of alcohol- and drug-dependence patients and, for such purpose, reclassification of such beds shall not be required.

(g) Any reference in any statute to Section 1250 shall be deemed and construed to also be a reference to this section.

SEC. 3. Section 1254.2 is added to the Health and Safety Code, to read:

1254.2. (a) The state department, in addition to the licensing duties imposed by Section 1254, shall license chemical dependency recovery hospitals to provide the basic services specified in subdivision (a) of Section 1250.3.

(b) Any reference in any statute to Section 1254 shall be deemed and construed to also be a reference to this section.

SEC. 4. Section 1275.2 is added to the Health and Safety Code, to read:

1275.2. (a) Notwithstanding any rules or regulations governing other health facilities, the regulations adopted by the state department for chemical dependency recovery hospitals shall prevail. The regulations applying to chemical dependency recovery hospitals shall prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified personnel, and

of services based on the needs of the persons served thereby.

(b) The regulations shall include provisions for an "open planning" architectural concept.

(c) Notwithstanding the provisions of Chapter 1 (commencing with Section 15000) of Division 12.5, the regulations shall exempt from seismic requirements all structures of a chemical dependency recovery hospital which are of Type V construction or single-story construction.

(d) Regulations shall be developed pursuant to this section and presented for adoption at a public hearing within 180 days of the effective date of this section.

(e) In order to assist in the rapid development of regulations for chemical dependency recovery hospitals, the director of the state department, not later than 30 days after the effective date of this section, shall convene an advisory committee composed of two representatives of the State Department of Alcohol and Drug Programs, two representatives of the State Department of Health Services, one representative of the Office of Statewide Health Planning and Development, two persons with experience operating facilities with alcohol or medicinal drug dependency programs, and any other persons having a professional or personal nonfinancial interest in development of such regulations. The members of such advisory committee who are not state officers or employees shall pay their own expenses related to participation on the committee. The committee shall meet at the call of the director until such time as the proposed regulations are presented for adoption at public hearing.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

There is a demonstrated citizen need for an immediate increase in the number of emergency medical technician II pilot projects approved by the Office of Statewide Health Planning and Development. Therefore, to enable additional emergency medical technician II's to provide prescribed life support care used in life threatening situations, it is necessary that this act take effect immediately. Additionally, in order to prevent unnecessary delay in establishment of badly needed specialized facilities for treatment of drug and alcohol dependence, it is necessary that this act take effect immediately.

CHAPTER 708

An act to amend Sections 1294, 1522, and 1550 of, and to add Sections 1265.1 and 1265.2 to, the Health and Safety Code, relating to health.

[Approved by Governor July 26, 1980 Filed with
Secretary of State July 27, 1980]

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

SECTION 1. Section 1265.1 is added to the Health and Safety Code, to read:

1265.1. (a) An application for licensure under this chapter may be denied by the state department if the applicant for a license has been convicted of a crime, as defined in Section 1265.2, or on the ground of knowingly making a false statement of fact required to be revealed in an application for such licensure.

(b) If the applicant is a firm, partnership, association, or corporation, the conviction of any officer, director, shareholder with a beneficial ownership interest in the applicant exceeding 10 percent, or the person in charge of the health facility may serve as the basis for denial of the license by the state department. If the applicant is a political subdivision of the state or other governmental agency, the conviction of such a crime by the person in charge of the health facility may serve as the basis for denial of the license by the state department.

(c) The record of conviction or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence thereof.

SEC. 2. Section 1265.2 is added to the Health and Safety Code, to read:

1265.2. A "crime," within the meaning of this chapter or Chapter 3 (commencing with Section 1500), means a violation of a law or regulation which is substantially related to the qualifications or duties of the applicant or licensee or which is substantially related to the functions of the business for which the license was, or is to be, issued.

A "conviction," within the meaning of this chapter or Chapter 3 (commencing with Section 1500), means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to the provisions of Section 1203.4 of the Penal Code permitting such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

Evidence of conviction of a misdemeanor following a plea of nolo contendere pursuant to the provisions of Section 1290 shall not be admissible in any hearing conducted under Section 1269 or 1295.

No application for licensure shall be denied nor shall a license be suspended or revoked solely on the basis of the conviction of a crime

if the director determines that the person has been rehabilitated in accordance with standards for rehabilitation developed by the director. The director shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

SEC. 3. Section 1294 of the Health and Safety Code is amended to read:

1294. The state department may suspend or revoke any license or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct inimical to the public health, morals, welfare, or safety of the people of the State of California in the maintenance and operation of the premises or services for which a license or special permit is issued.

(d) The conviction of a licensee, or other person mentioned in subdivision (b) of Section 1265.1, at any time during licensure, of a crime as defined in Section 1265.2.

SEC. 4. Section 1522 of the Health and Safety Code is amended to read:

1522. (a) Before issuing a license to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant, facility administrator or manager, or any person specified in subdivision (c) or any other person residing or regularly in the facility having routine contact with the resident, has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant, facility administrator or manager, or any person mentioned in this section, has been convicted of a crime as defined in Section 1265.2, the application shall be denied, unless otherwise provided pursuant to this section.

(b) After review of the record, the director may exempt any applicant for a license or special permit, or any other person mentioned in this section from the provisions of this section if the director or person in charge of the county inspection service believes the applicant to be of such good character as to justify issuance of a license.

(c) If the applicant or licensee is a firm, partnership, association, or corporation, the conviction of any officer, director, or shareholder with a beneficial ownership interest in the applicant exceeding 10

percent may serve as the basis for denial of the license.

(d) The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge of the court before which the conviction is had, shall be conclusive evidence thereof.

SEC. 6. Section 1550 of the Health and Safety Code is amended to read:

1550. The state department may suspend or revoke any license, registration, or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter.

(a) Violation by the licensee, registrant, or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct in the operation or maintenance, or both the operation and maintenance, of a community care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time during licensure, of a crime as defined in Section 1265.2.

The director may temporarily suspend any license, registration, or special permit, prior to any hearing when, in the opinion of the director, such action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee, registrant, or holder of the special permit of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, registrant, or holder of the special permit, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

CHAPTER 709

An act to amend Section 35300 of, and to add Section 35305 to, the Financial Code, relating to loans.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Section 35300 of the Financial Code is amended to read:

35300. The department is empowered to make subordinated loans to a recreational marina in connection with a loan made by a state bank, a national bank, or a California corporation licensed under Division 15 (commencing with Section 31000) to such recreational marina, and approved for guarantee by any agency of the federal government, when the purpose of the subordinated loan and guaranteed loan is to construct, improve, or expand recreational marina facilities.

SEC. 2. Section 35305 is added to the Financial Code, to read:

35305. Subordinated loan means a loan that is subordinated to principal and interest.

CHAPTER 710

An act to amend Sections 3710, 3784, 3790, 4010, 4011, 4020, 4055, 5015, 5323, and 23302 of, to add Section 5330 to, and to add Article 5 (commencing with Section 3795) to Chapter 2 of, Article 6 (commencing with Section 5025) to Chapter 3 of, and Article 4 (commencing with Section 5215) to Chapter 4 of, Division 5 of, the Elections Code, relating to elections.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 3710 of the Elections Code is amended to read:

3710. When it is legally possible to hold a special election under this article within six months prior to a regular election, the board of supervisors may submit the proposed ordinance at that regular election instead of at a special election.

In all other cases the board of supervisors shall call a special election to be held not less than 80 nor more than 120 days after the date of the presentation of the proposed ordinance to it. However, to avoid holding more than one election within any six months, the

date for holding the special election may be fixed later than 120 days after the date of the presentation of the proposed ordinance to the board, but at as early a date as practicable after the expiration of the six months.

Not more than one special election may be held pursuant to this article during any period of six months.

SEC. 2. Section 3784 of the Elections Code is amended to read:

3784. Based on the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots and to permit the 20-day public examination as provided in Article 5 (commencing with Section 3795) for the particular election, the county clerk shall fix and determine a reasonable date prior to the election after which no arguments for or against any county measure may be submitted for printing and distribution to the voters as provided in this article. Notice of the date fixed shall be published by the county clerk pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the county clerk.

SEC. 3. Section 3790 of the Elections Code is amended to read:

3790. Whenever the clerk is required to mail official matter, as provided in Sections 3713, 3714, 3781, 3783, and 3787, only one copy of each such official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

The provisions of this section shall only apply if the board of supervisors adopts the provisions of this section.

SEC. 4. Article 5 (commencing with Section 3795) is added to Chapter 2 of Division 5 of the Elections Code, to read:

Article 5. Public Examination

3795. Not less than 20 days before the clerk submits the official election materials referred to in Sections 3713, 3714, 3781, 3783, and 3787 for printing, the clerk shall make a copy of such materials available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 20-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the clerk, himself or herself, may seek a writ of mandate or an injunction requiring any or all such materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in

question shall be named as real parties in interest. In the case of the clerk bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

SEC. 5. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the county clerk's last official report of registration to the Secretary of State, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 94 nor more than 109 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

SEC. 5.5. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the county clerk's official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 94 nor more than 109 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

SEC. 6. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent of the voters of the city according to the county clerk's last official report of registration to the Secretary of State, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of said city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not earlier than the 89th day nor later than the 75th day after the order of the legislative body.

SEC. 6.5. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent of the voters of the city according to the county clerk's official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of said city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not earlier than the 89th day nor later than the 75th day after the order of the legislative body.

SEC. 7. Section 4020 of the Elections Code is amended to read:

4020. When a special election is to be called under this article, it shall be held not less than 94 nor more than 109 days after the date of the presentation of the proposed ordinance to the legislative body, and shall be held in accordance with the provisions of this code. To avoid holding more than one special election within any six months, the date for holding the special election may be fixed later than 109 days, but at as early a date as practicable after the expiration of six months from the last special election. When it is legally possible to hold a special election under this chapter within six months prior to a regular municipal election, the legislative body may submit the proposed ordinance at the regular election instead of at a special election.

SEC. 8. Section 4055 of the Elections Code is amended to read:

4055. If the legislative body does not entirely repeal the ordinance against which the petition is filed, the legislative body shall submit the ordinance to the voters, either at a regular municipal election occurring not earlier than the 89th day nor later than the 75th day after the order of the legislative body or at a special election called for the purpose and held not less than 94 nor more than 109 days after the date of the order. The ordinance shall not become effective until a majority of the voters voting on the ordinance vote in favor of it. If the legislative body repeals the ordinance or submits the ordinance to the voters and a majority of the voters voting on the ordinance do not vote in favor of it, the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its repeal by the legislative body or disapproval by the voters.

SEC. 9. Section 5015 of the Elections Code is amended to read:

5015. Based on the time reasonably necessary to prepare and print the arguments and sample ballots and to permit the 20-day public examination as provided in Article 6 (commencing with Section 5025) for the particular election, the city clerk shall fix and determine a reasonable date prior to the election after which no arguments for or against any city measure may be submitted for printing and distribution to the voters as provided in this article.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the city clerk.

SEC. 10. Article 6 (commencing with Section 5025) is added to Chapter 3 of Division 5 of the Elections Code, to read:

Article 6. Public Examination

5025. Not less than 20 days before the clerk submits the official election materials referred to in Sections 4015, 4015.5, 4018, 5011, 5012, 5013, and 5014.5 for printing, the clerk shall make a copy of such material available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 20-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the clerk, himself or herself, may seek a writ of mandate or an injunction requiring any or all such materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest. In the case of the clerk bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

SEC. 11. Article 4 (commencing with Section 5215) is added to Chapter 4 of Division 5 of the Elections Code, to read:

Article 4. Public Examination

5215. Not less than 20 days before the clerk submits the official election materials referred to in Sections 5156, 5157, and 5157.5 for printing, the clerk shall make a copy of such materials available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 20-day examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any such material to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that

the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 12. Section 5323 of the Elections Code is amended to read:

5323. Based on the time reasonably necessary to prepare and print the arguments and to permit the 20-day public examination as provided in Section 5330, the person conducting the election shall fix and determine a reasonable date prior to the election after which no arguments for or against any school measure may be submitted to him for printing and distribution to the voters. Notice of the date fixed shall be published pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the person conducting the election.

SEC. 13. Section 5330 is added to the Elections Code, to read:

5330. Not less than 20 days before the clerk submits the official election materials referred to in Sections 5321, 5322, and 5325 for printing, the clerk shall make a copy of such materials available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 20-day examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any or all such materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 14. Section 23302 of the Elections Code is amended to read:

23302. Whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and such question, proposition, or office to be filled is to appear upon the same ballot as that provided for such statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the county clerk, a resolution of its governing board requesting such consolidation and setting forth the exact form of any question, proposition, or office to be voted upon at such election, as

the same is to appear on the ballot. The question or proposition to appear on the ballot shall conform to the provisions of this code governing the wording of propositions submitted to the voters at a statewide election. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution or order calling the election. The names of the candidates to appear upon the ballot where district, city, or other political subdivision offices are to be filled shall be filed with the county clerk no later than 67 days prior to the election.

SEC. 15. It is the intent of the Legislature, if this bill and Assembly Bill No. 2617 are both chaptered and amend Section 4010 of the Elections Code, and this bill is chaptered after Assembly Bill No. 2617, that the amendments to Section 4010 proposed by both bills be given effect and incorporated in Section 4010 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and Assembly Bill No. 2617 are both chaptered, both amend Section 4010, and Assembly Bill No. 2617 is chaptered before this bill, in which case Section 5 of this act shall not become operative.

SEC. 16. It is the intent of the Legislature, if this bill and Assembly Bill No. 2617 are both chaptered and amend Section 4011 of the Elections Code, and this bill is chaptered after Assembly Bill No. 2617, that the amendments to Section 4011 proposed by both bills be given effect and incorporated in Section 4011 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill No. 2617 are both chaptered, both amend Section 4011, and Assembly Bill No. 2617 is chaptered before this bill, in which case Section 6 of this act shall not become operative.

SEC. 17. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

CHAPTER 711

An act to add Article 14.2 (commencing with Section 33476) to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Article 14.2 (commencing with Section 33476) is added to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 14.2. Merger of Redevelopment Project Areas in the City of San Leandro

33476. (a) For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the City of San Leandro for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360) of this chapter, may be merged, without regard to contiguity of such areas, by the amendment of each affected redevelopment plan as provided in Article 12 (commencing with Section 33450). Except as provided in subdivision (b), taxes attributable to each project area merged pursuant to this section which are allocated to the redevelopment agency pursuant to Section 33670 may be allocated, as provided in subdivision (b), to the entire merged project area for the purpose of paying the principal of, and interest on, indebtedness incurred by the redevelopment agency to finance or refinance, in whole or in part, such merged redevelopment project.

(b) If the redevelopment agency has, prior to merger of redevelopment project areas pursuant to subdivision (a), incurred any indebtedness on account of a constituent project area so merged, taxes attributable to that area which are allocated to the agency pursuant to Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from the constituent project area.

(c) In connection with any amendment which proposes merger of redevelopment project areas pursuant to subdivision (a), the county or any affected taxing entity may call for the creation of a fiscal review committee as provided for in Article 4 (commencing with Section 33330) of this chapter.

(d) After merger of redevelopment projects pursuant to subdivision (a), the clerk of the legislative body shall transmit a copy of the ordinance amending the plans for projects to be merged to the governing body of each of the taxing agencies which levies taxes upon any property in the project.

33476.1. (a) Subject to the provisions of subdivision (a) and subdivision (b) of Section 33476, not less than 20 percent of all taxes which are allocated to the redevelopment agency pursuant to Section 33670 for redevelopment projects merged pursuant to this article, irrespective of the date of adoption of the final redevelopment plans shall be deposited by the agency in the Low and Moderate Income Housing Fund established pursuant to Section 33334.3, or which shall be established for purposes of this section. The

agency shall use the moneys in such fund to assist in the construction or rehabilitation of housing units which will be available to, or occupied by, persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, for a period of not less than 30 years. For the purposes of this subdivision, "construction and rehabilitation" shall include acquisition of land, improvements to land; the acquisition, rehabilitation, or construction of structures; or the provision of subsidies necessary to provide housing for persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105.

(b) The agency may use the funds set aside by subdivision (a) inside or outside the project area. However, the agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project. Such determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is of benefit to a project.

The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(c) If moneys deposited in the Low and Moderate Income Housing Fund pursuant to this section have not been committed for the purposes specified in subdivisions (a) and (b) for a period of six years following deposit in that fund, the agency shall offer such moneys to the housing authority which operates within the jurisdiction of the agency, if activated pursuant to Section 34240, for the purpose of constructing or rehabilitating housing as provided in subdivisions (a) and (b) of this section.

(d) Notwithstanding subdivision (d) of Section 33413, any agency which merges its redevelopment project areas pursuant to this article shall be subject to the provisions of subdivisions (a) and (c) of Section 33413.

33476.2. Prior to merging project areas pursuant to Section 33476, the redevelopment agency shall notify the department of its intention to merge its project areas, no later than 30 days prior to adoption of the ordinance which provides for merger.

33476.3. This article shall be applicable only to redevelopment projects of the redevelopment agency of the City of San Leandro for which a final redevelopment plan was adopted by ordinance on or before January 1, 1980.

The Legislature finds and declares that conditions unique to the financing of redevelopment in the City of San Leandro require the granting of authority to merge project areas.

SEC. 2. Section 1 of this act shall not become operative if Assembly Bill No. 3213 of the 1979–80 Regular Session of the Legislature is chaptered.

CHAPTER 712

An act to amend Sections 57023 and 57051 of the Food and Agricultural Code, relating to farm produce.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 57023 of the Food and Agricultural Code is amended to read:

57023. Every produce dealer that operates in a market is responsible for having on hand at his place of business a responsible person to receipt for any farm product which is unloaded at his place of business during posted receiving hours.

SEC. 2. Section 57051 of the Food and Agricultural Code is amended to read:

57051. This chapter shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 713

An act to add Chapter 5 (commencing with Section 35185) to Part 4 of Division 13 of the Water Code, relating to water districts.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Chapter 5 (commencing with Section 35185) is added to Part 4 of Division 13 of the Water Code, to read:

CHAPTER 5. METHOD OF ELECTIONS FOR THE MOULTON-NIGUEL WATER DISTRICT

35185. The provisions of this chapter shall apply only to the Moulton-Niguel Water District. For purposes of this chapter "district" means the Moulton-Niguel Water District.

35186. Notwithstanding any other provision of law, or the bylaws of the district, all elections held after the effective date of this chapter within the district, including elections for directors and elections which are required by law to authorize any special taxes or bonded indebtedness, except special taxes or bonded indebtedness of an uninhabited improvement district, shall be conducted as resident voter elections in accordance with the provisions of this chapter. As used in this chapter, "uninhabited improvement district" means an improvement district having 12 or less registered voters residing therein.

35187. Qualified voters within the district shall be residents of and registered voters in the district.

35188. All directors elected after the effective date of this chapter shall be residents of the district and shall be registered voters at the time of their election and during their term of office.

35189. Directors of the district shall be elected on an at-large basis unless the board of directors determines that directors shall be elected by divisions. The term "by divisions," as used in this chapter, means the election of directors by voters of the division alone.

35190. Notwithstanding any other provision of law, the board of directors may at any time establish divisions within the district in accordance with the provisions of this chapter. If the board of directors decides to establish divisions, the following shall apply:

(a) The board of directors shall by resolution divide the district into as many divisions as there are directors and assign a number to each division. Such divisions shall be as nearly equal in population as practicable; provided, however, that if there is uninhabited land, which shall be defined as land having 12 or less registered voters residing therein in excess of 3,000 contiguous acres within any improvement district, such land may be designated by the board of directors as a division, and in such event elections for director for such division, which director need only be a holder of title to land within such division, shall be conducted in accordance with the provisions of Article 1 (commencing with Section 35000) of Chapter 1 and Chapter 2 (commencing with Section 35100) of this part.

(b) After approving the election of directors by divisions, the board of directors shall by resolution, not less than 120 days prior to the next general district election, designate which divisions shall elect directors at that election to succeed the directors whose terms then expire. The remaining divisions shall elect directors at the general district election next following that election.

(c) Each director elected by division shall be a resident of that division.

(d) The board of directors by resolution may, at any time after initially dividing the district into divisions, but not less than 120 days before a general district election, change the boundaries of the divisions to keep them as nearly equal in population as practicable.

35191. At the first general district election following the effective date of this chapter, the number of directors to be elected shall correspond with the number of directors whose terms expire. The directors whose terms have not expired shall serve their unexpired terms under the qualification to hold office that existed prior to the effective date of this chapter. In such first election and in all subsequent elections, the form of the ballot and the conduct of the election shall be governed by the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Education Code) for resident voting elections.

35192. Notwithstanding any other provision of law, a vacancy on the board of directors shall be filled as provided in this section. The remaining directors shall fill the vacancy by appointment within a period of 60 days immediately subsequent to the effective date of such vacancy. The person appointed shall serve the balance of the unexpired term of his predecessor.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

35193. The provisions of this chapter shall in no way invalidate any act of the district, its directors, or its officers and employees made or performed while the district was operating as a landowner voting district.

35194. Nothing in this chapter shall affect any acts or proceedings heretofore taken for the authorization, issuance, or sale of any bonds of the district in any manner provided by law prior to the effective date of this chapter. For the purposes of this chapter, "bonds" shall include notes and any other evidences of indebtedness of the district or any improvement district thereof.

35195. Notwithstanding any other provision of law, the board of directors may at any time alter, repeal, or amend the district's bylaws by a majority vote. Any alteration, repeal, or amendment to the bylaws shall be recorded with the county recorder of each affected county.

SEC. 2. The Legislature hereby finds and declares that, pursuant to Section 16 of Article IV of the California Constitution, this act is a local and special statute because a general statute cannot be made applicable to the special facts and circumstances pertaining to the Moulton-Niguel Water District. The Legislature hereby determines that, except as is expressly set forth herein to the contrary, the voter qualification provisions of the California Water District Law shall not apply to this district and that all future elections shall be conducted as resident voter elections and that the board of directors hereafter so elected, subject to compliance with all applicable legal requirements, shall have an ongoing continuous duty to diligently

pursue the design, financing, and construction of facilities to provide water and sewer services within the district on fair and equitable terms and conditions.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 714

An act to amend Section 45105.1 of, and to add Section 88005.1 to, the Education Code, relating to public education employees.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 45105.1 of the Education Code is amended to read:

45105.1. The governing board of a school district may establish positions and employ persons in public service employment positions which are funded by the Comprehensive Employment and Training Act (CETA) and which are restricted by the act to a limited duration of participation.

The positions shall be a part of the classified service. Persons so employed shall be classified employees for all purposes except that they shall not be subject to the provisions of Sections 45272 and 45273, and they shall not acquire permanent status or seniority credit for the purpose of layoff or reemployment. Retirement benefits shall be subject to the applicable federal law.

Persons employed in and occupying such positions shall be eligible to apply for any position or class of positions within the classified service for which they meet the qualifications, and upon employment in the regular classified service shall have their classified service counted from the original date of employment in the CETA position.

SEC. 2. Section 88005.1 is added to the Education Code, to read:

88005.1. The governing board of a community college district may establish positions and employ persons in public service employment positions which are funded by the Comprehensive Employment and Training Act (CETA) and which are restricted by the act to a limited duration of participation.

The positions shall be a part of the classified service. Persons so

employed shall be classified employees for all purposes except that they shall not be subject to the provisions of Sections 88091 and 88092, and they shall not acquire permanent status or seniority credit for the purpose of layoff or reemployment. Retirement benefits shall be subject to the applicable federal law.

Persons employed in and occupying such positions shall be eligible to apply for any position or class of positions within the classified service for which they meet the qualifications, and, upon employment in the regular classified service, shall have their classified service counted from the original date of employment in the CETA position.

CHAPTER 715

An act to amend Sections 49066 and 49070 of the Education Code, relating to pupil records.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 49066 of the Education Code is amended to read:

49066. (a) When grades are given for any course of instruction taught in a school district, the grade given to each pupil shall be the grade determined by the teacher of the course and the determination of the pupil's grade by the teacher, in the absence of clerical or mechanical mistake, fraud, bad faith, or incompetency, shall be final.

(b) The governing board of the school district and the superintendent of such district shall not order a pupil's grade to be changed unless the teacher who determined such grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which such grade was given and is, to the extent practicable, included in all discussions relating to the changing of such grade.

(c) No grade of a pupil participating in a physical education class, however, may be adversely affected due to the fact that the pupil does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the pupil.

SEC. 2. Section 49070 of the Education Code is amended to read:

49070. Following an inspection and review of a pupil's records, the parent of a pupil or former pupil of a school district may challenge the content of any pupil record.

(a) The parent of a pupil may file a written request with the superintendent of the district to correct or remove any information

recorded in the written records concerning his child which he alleges to be: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the superintendent or his designee shall meet with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.

If the superintendent sustains any or all of the allegations, he shall order the correction or the removal and destruction of the information. However, in accordance with Section 49066, the superintendent shall not order a pupil's grade to be changed unless the teacher who determined such grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which such grade was given and is, to the extent practicable, included in all discussions relating to the changing of such grade.

If the superintendent denies any or all of the allegations and refuses to order the correction or the removal of the information, the parent may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

(c) Within 30 days of receipt of such an appeal, the governing board shall, in closed session with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district, determine whether or not to sustain or deny the allegations.

If the governing board sustains any or all of the allegations, it shall order the superintendent to immediately correct or remove and destroy the information from the written records of the pupil. However, in accordance with Section 49066, the governing board shall not order a pupil's grade to be changed unless the teacher who determined such grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which such grade was given and is, to the extent practicable, included in all discussions relating to the changing of such grade.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the parent initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the parent, or if the parent accepts an unfavorable decision by the district superintendent, the parent shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the pupil's school record until such time as the information objected to is corrected or removed.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 716

An act to add Sections 358.1 and 366.1 to the Welfare and Institutions Code, relating to welfare of children.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 358.1 is added to the Welfare and Institutions Code, to read:

358.1. Each social study required to be received in evidence pursuant to Section 358 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or probation officer has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered such services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child is recommended to the court by the county welfare department or probation officer.

(c) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control pursuant to Section 232 of the Civil Code.

SEC. 2. Section 366.1 is added to the Welfare and Institutions Code, to read;

366.1. Each supplemental report required to be filed pursuant to Section 366 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or probation officer has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered such services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child is recommended to the court by the county welfare department or probation officer.

(c) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child

from parental custody and control pursuant to Section 232 of the Civil Code.

(d) What actions, if any, have been taken by the parent to correct the problems which caused the child to be made a court dependent.

CHAPTER 717

An act to amend Sections 1122, 1163, 1164, 1165, and 1190 of the Harbors and Navigation Code, relating to pilots.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Section 1122 of the Harbors and Navigation Code is amended to read:

1122. (a) A pilot carried to sea against his will, or unnecessarily detained on board a vessel when a pilot vessel is in attendance to receive him, shall receive one hundred fifty dollars ($150) per day while so carried to sea or detained, plus reimbursement for any expenses incurred by him in returning to the pilot station.

(b) The master or owner of the detaining vessel shall pay to the pilot so detained such amount as is determined in accordance with subdivision (a).

(c) The total amount to which a detained pilot is entitled shall not exceed one thousand five hundred dollars ($1,500).

SEC. 2. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) Each retired or disabled pilot shall receive, as a monthly pension, that amount which is sixty dollars ($60) multiplied by the number of full years of service he performed as a pilot licensed under this division.

(2) A pilot who retires or becomes disabled shall not begin to receive his pension until the benefit year next following the date on which he retires or becomes disabled.

(3) No retired pilot shall receive benefits pursuant to the pension plan in any benefit year unless his resignation as an active pilot was submitted, in writing, to the Board of Pilot Commissioners, prior to December of the immediately preceding calendar year. His resignation shall become effective no later than the last day of the month preceding the start of such benefit year.

(4) If a retired or disabled pilot who is receiving a pension dies without a wife surviving him, his successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(b) (1) The widow of a deceased pilot who would be eligible for a pension pursuant to subdivision (c) of Section 1164 shall receive,

as a monthly pension, one-half of the amount that her deceased husband would have received as a pension pursuant to this section had he lived.

(2) If a retired or disabled pilot receiving a pension dies, his widow shall continue to receive the full pension to which her deceased husband was entitled for the balance of the benefit year, after which she shall receive the amount specified in paragraph (1) of this subdivision.

(3) When a widow receiving a pension dies, her successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(c) For the purposes of the computations described in paragraph (1) of subdivision (a) of this subdivision, six months or more of service by a pilot shall be considered a full year.

SEC. 3. Section 1164 of the Harbors and Navigation Code is amended to read:

1164. (a) A pilot shall be eligible for the pension provided in Section 1163 if he meets all of the following requirements:

(1) Held a license as a pilot and served at least five years in that capacity.

(2) Retired after January 1, 1972.

(3) Is at least 60 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the Board of Pilot Commissioners, based upon competent medical evidence, that such pilot is unable to perform the duties of a pilot.

(c) A widow of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if her deceased pilot husband died after January 1, 1972, and if he had held a license as a pilot.

SEC. 4. Section 1165 of the Harbors and Navigation Code is amended to read:

1165. (a) In addition to and concurrently with the basic pilotage rate described in Section 1190, a charge shall be levied for pilotage services at a rate necessary to provide the benefits to be paid out pursuant to the pension plan. The additional rate shall be determined as follows:

(1) On December 1, of each year, the number of persons eligible to receive benefits under the plan, their identities, the amount each will be entitled to receive, and the total amount to be paid out to all such persons during each month of the next benefit year, shall be determined by the fiduciary agent.

(2) After the total amount to be paid out monthly under the plan has been determined, the rate necessary to provide that amount each month shall be calculated semiannually. The rate shall be based upon the volume of shipping, in gross registered tons, handled by pilots licensed under this division for the 12-month periods ending the previous September 30 and the previous March 31, respectively The rate shall be expressed as mills per gross registered ton and shall

be calculated to the nearest one-hundredth of a mill.

(3) Based on the foregoing calculations, if the total amount to be paid out yearly will exceed three hundred thousand dollars ($300,000), the rate shall be established so that the pension plan will produce maximum revenues of three hundred thousand dollars ($300,000) per year and the benefits shall be reduced accordingly.

(b) The rate determined pursuant to paragraphs (1), (2), and (3) of subdivision (a) shall become effective on January 1 of the following year with respect to the September 30 calculations, and on July 1 of that year with respect to the March 31 calculations, and shall be in effect for the succeeding 6-month period.

(c) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotages during that month or year.

(d) Benefits pursuant to the new rate calculations shall be paid commencing in February and August of each year and shall continue through and include July of the same year and January of the following year. The period during which benefits are paid is the benefit year.

SEC. 5. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(a) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 16.25 mills ($0.01625) per high gross registered ton.

(b) A minimum charge for bar pilotage shall be three hundred dollars ($300) for each vessel piloted.

(c) The vessel's deepest draft shall be the maximum draft attained, on a still water basis, at any part of the vessel during the course of such transit inward or outward.

CHAPTER 718

An act to amend Section 19572 of, and to add Sections 31115.5 and 45203 to, the Government Code, relating to government.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 19572 of the Government Code is amended to read:

19572. Each of the following constitutes cause for discipline of an employee, or person whose name appears on any employment list:

(a) Fraud in securing appointment.
(b) Incompetency.
(c) Inefficiency.
(d) Inexcusable neglect of duty.
(e) Insubordination.
(f) Dishonesty.
(g) Drunkenness on duty.
(h) Intemperance.
(i) Addiction to the use of narcotics or habit-forming drugs.
(j) Inexcusable absence without leave.
(k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
(*l*) Immorality.
(m) Discourteous treatment of the public or other employees.
(n) Improper political activity.
(o) Willful disobedience.
(p) Misuse of state property.
(q) Violation of this part or board rule.
(r) Violation of the prohibitions set forth in accordance with Section 19251.
(s) Refusal to take and subscribe any oath or affirmation which is required by law in connection with his employment.
(t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to his agency or his employment.
(u) Any negligence, recklessness, or intentional act which results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.
(v) The use during duty hours, for training or target practice, of any material which is not authorized therefor by the appointing power.

SEC. 2. Section 31115.5 is added to the Government Code, to read:

31115.5. Any county employee, or person whose name appears on any county employment list, who uses during duty hours, for training or target practice, any material which is not authorized therefor by the appointing power, shall be disciplined pursuant to the county civil service system.

SEC. 3. Section 45203 is added to the Government Code, to read:

45203. Any city employee, or person whose name appears on any city employment list who uses during duty hours, for training or target practice, any material which is not authorized therefor by the appointing power, shall be disciplined pursuant to the city personnel, merit or civil service system.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California

Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 719

An act to add Section 19798 to the Government Code, relating to state employees.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Section 19798 is added to the Government Code, to read:

19798. In establishing order and subdivisions of layoff and reemployment, the board, when it finds past discriminatory hiring practices, shall by rule, adopt a process that provides that the composition of the affected work force will be the same after the completion of a layoff, as it was before the layoff procedure was implemented.

CHAPTER 720

An act to amend Section 31725.5 of, to add Sections 31454.1 and 31678 to, and to add and repeal Sections 20938 and 31725.6 of, the Government Code, relating to public retirement systems.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. The intent of the Legislature in enacting this act is to provide for the actuarial soundness of retirement systems established under the County Employees Retirement Law of 1937 and to promote efficiency in the administration of such systems.

SEC. 2. Section 20938 is added to the Government Code, to read:

20938. Notwithstanding any other provision of law, a local member who has elected to receive credit for service by contributing in installments and who has been retired for industrial disability between January 1, 1979, and January 1, 1981, shall be refunded without interest all lump sum payments made within 30 days of retirement on account of such elective service. Other local

members may cancel such an election prospectively from the effective date of their retirement for industrial disability.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required or, in the case of contracts made after January 1, 1981, by express provision in such contract making the contracting agency subject to the provisions of this section. Such an amendment, or contract provision, may provide that this section applies with respect to all of the agency's active and retired local members who retire, or retired, directly from service for such agency without intervening employment.

This section shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

SEC. 3. Section 31454.1 is added to the Government Code, to read:

31454.1. The independent assumptions and calculations of an actuary contained in the actuarial valuation required by Section 31453 shall not be subject to the "meet and confer" provisions of the Meyers-Milias-Brown Act; however, it is recognized that such provisions require that the board or the board of supervisors meet and confer with representatives of recognized employee organizations prior to determining a course of action with respect to the recommendations contained in such an actuarial valuation. The intent of the Legislature, in enacting this section, is to insure the solvency and actuarial soundness of the retirement systems governed by this chapter by preserving the independent nature of the actuarial evaluation process.

SEC. 4. Section 31678 is added to the Government Code, to read:

31678. Notwithstanding any other provision of this chapter, any member of a retirement association established in any county pursuant to this chapter, who upon retirement receives a retirement allowance calculated in accordance with Sections 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, and 31676.15, shall have his or her retirement allowance calculated under each such section only for the period of time that the section was effective in the county.

The Legislature recognizes that counties subject to this chapter may adopt two or more of the enumerated retirement allowance calculation sections when changing from a section providing a lesser allowance to a section providing a larger allowance and thereby creates a windfall for a person who retires immediately after the adoption of a section providing the larger allowance because the retirement allowance is calculated as if the section had been in effect during the entire career of the member. The purpose of this section is to prevent this practice. This section shall apply only to persons who become members of the retirement system after January 1, 1981.

SEC. 5. Section 31725.5 of the Government Code is amended to read:

31725.5. If the board finds, on medical advice, that a member in county employment, although incapacitated for the performance of his duties, is capable of performing other duties in the service of the county, the member shall not be entitled to a disability retirement allowance if any competent authority in accordance with any applicable civil service or merit system procedures offers and he accepts a transfer, reassignment, or other change to a position with duties within his capacity to perform with his disability. If this new position returns to the member compensation less than that of the position from which he was disabled, the board, in lieu of a disability retirement allowance, shall pay him the difference in such compensation until the compensation of the new position equals or exceeds the compensation (including later changes) of the former position, but such amount shall not exceed the amount to which he would otherwise be entitled as a disability retirement allowance. Such payments in lieu of disability retirement allowance shall be considered as a charge against county advance reserve for current service.

If a new position cannot be arranged at the time of eligibility for disability retirement allowance, such disability retirement allowance to which the member is entitled under this article shall be paid until such time as a new position is available and accepted.

If a disability retirement allowance is paid and the member later accepts such a new position, the period while on disability retirement shall not be considered as breaking the continuity of service and his rate of contributions shall be based on the same age as it was at the date of disability. The member's accumulated contributions shall be the same as at the date his disability retirement began less the amount charged to his accumulated normal contributions.

Nothing in this section shall be construed to require a member to accept reassignment or transfer in lieu of a disability retirement allowance.

The provisions of this section become effective in any county only when the board of supervisors adopts an ordinance providing for their implementation by the board of retirement which may include application to persons retired for disability before such effective date.

The provisions of this section shall only apply to members eligible to retire for nonservice-connected disability.

SEC. 6. Section 31725.6 is added to the Government Code, to read:

31725.6. (a) When the board finds, based on medical advice, that a member in county service is incapacitated for the performance of the member's duties, the board shall determine, based upon such medical advice, whether the member is capable of performing other duties. If the board determines that a member, although incapacitated for the performance of the member's duties, is capable

of performing other duties, the board shall inform the appropriate agency in county service of its findings and request that the agency immediately initiate a suitable rehabilitation program for the member pursuant to Section 139.5 of the Labor Code, whereby the member could become qualified for assignment to a position in county service consistent with the rehabilitation program.

(b) When the appropriate agency in county service receives such a request from the board, the agency shall immediately refer the member to a qualified rehabilitation representative for vocational evaluation. During the course of such evaluation, the rehabilitation representative shall consult with the appropriate agency in county service to determine what position, if any, in county service would be compatible with the member's aptitudes, interests, and abilities and whether rehabilitation services will enable the member to become qualified to perform the duties of such position.

(c) Upon completion of the vocational evaluation of the member, the rehabilitation representative shall develop a suitable rehabilitation plan and submit the plan for concurrence by the member and the appropriate agency in county service and, thereafter, the agency shall forward the plan to the Division of Industrial Accidents for approval pursuant to Section 139.5 of the Labor Code.

(d) Upon receipt of approval of the rehabilitation plan, the appropriate agency in county service shall notify the board that the agency is either proceeding to implement an approved rehabilitation plan that will qualify the member for a position in county service specified in the plan or is unable to provide a position in county service compatible with the approved rehabilitation plan. The agency shall not consider as compatible a position for which the compensation is less than an amount equal to two-thirds of the compensation for the position for which the member was incapacitated.

(e) Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the member shall not be paid the disability retirement allowance to which the member would otherwise be entitled during the entire period that the member remains in county service; provided, that, if the compensation rate of the position specified in the approved rehabilitation plan is less than the compensation rate of the position for which the member was incapacitated, the board shall, in lieu of disability retirement allowance, pay to the member a supplemental disability allowance in an amount equal to the difference between the compensation rate of the position for which the member was incapacitated, applicable on the date of the commencement of service by the member in the position specified in the approved rehabilitation plan, and the compensation rate of the position specified in the plan, applicable on the same date. The disability allowance shall be adjusted annually to equal the difference between the current compensation rate of the position for which the member

was incapacitated and the current compensation of the position specified in the approved rehabilitation plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of such payments shall not be greater than the disability retirement allowance to which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all such payments received by a member shall be considered as a part of such member's compensation within the meaning of Section 31460.

(f) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved rehabilitation plan, and the member has commenced service in such position, the disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the period during which the member was receiving disability retirement payments shall not be considered as breaking the continuity of the member's service, and the rate of such member's contributions shall continue to be based on the same age at entrance into the retirement system as the member's rates were based on prior to the date of the member's disability. The member's accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(g) Notwithstanding Section 31560, a member whose principal duties, while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved rehabilitation plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(h) If, within one year from the date that the member has been eligible for a disability retirement allowance, the appropriate agency in county service has offered to the member, in writing, the position specified in the rehabilitation plan which had previously been concurred, in writing, by the member and approved by the Division of Industrial Accidents pursuant to Section 139.5 of the Labor Code, the member shall, within 30 days of receipt of the notice, report for duty at the location specified in the notice. If the member refuses to report for duty within the time specified, the appropriate agency in county service may apply to the board to have the member's allowance discontinued. The board shall be authorized to discontinue the member's disability retirement allowance if based upon substantial evidence of the refusal of the member to report to

work without reasonable cause; however, the board shall not be authorized to impair any other of the rights or retirement benefits to which such member would otherwise be entitled.

(i) The provisions of this section shall apply only to members who are eligible to retire for service-connected disability.

(j) This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 7. The Auditor General shall study the cost and savings under Section 6 of this act and report to the Legislature thereon on or before January 1, 1984.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 721

An act to amend Sections 67005, 67024, 67028, 67032, 67033, 67054, 67061, 67082, 67092, 67104, 67111, 67112, 67121.5, 67124, and 67131 of, to add Sections 67032.5, 67055.5, 67055.6, 67131.5, and 67131.6 to, to add Article 2.5 (commencing with Section 67041) to Chapter 5 of Division 22 of, to repeal and add Section 67102 to, and to repeal Sections 67029 and 67083 of, the Food and Agricultural Code, relating to avocados.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 67005 of the Food and Agricultural Code is amended to read:

67005. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, production research, and related marketing research.

SEC. 2. Section 67024 of the Food and Agricultural Code is amended to read:

67024. "Cooperative producer" means any member of a nonprofit cooperative organization which operates as a handler as defined in Section 67031.

SEC. 3. Section 67028 of the Food and Agricultural Code is amended to read:

67028. "Distributor" means any person who engages, in this state, in the operation of selling, marketing, or distributing avocados which he has produced or purchased or acquired from a producer, or which

he is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. It does not, however, include a retailer, except for a retailer who purchases or acquires from any producer, or handles on behalf of any producer, avocados which were not previously subjected to regulation by the commission.

SEC. 4. Section 67029 of the Food and Agricultural Code is repealed.

SEC. 5. Section 67032 of the Food and Agricultural Code is amended to read:

67032. "Independent handler" means a handler who handles fruit primarily for an independent producer or grower.

SEC. 6. Section 67032.5 is added to the Food and Agricultural Code, to read:

67032.5. "Cooperative handler" means a handler who handles fruit primarily for a cooperative producer.

SEC. 7. Section 67033 of the Food and Agricultural Code is amended to read:

67033. "Independent producer or grower" means an individual who markets at least 75 percent of his volume of fruit as measured in pounds through other than a nonprofit cooperative marketing organization.

A person standing for election as an independent producer shall be required to sign an affidavit attesting that he or she sells at least 75 percent of his or her fruit independently.

SEC. 8. Article 2.5 (commencing with Section 67041) is added to Chapter 5 of Division 22 of the Food and Agricultural Code, to read:

Article 2.5. Districts

67041. "Districts" shall consist of the following:

(a) District 1 consists of that part of San Diego County west of State Highway Route 15 and north of State Highway Route 8

(b) District 2 consists of all of San Diego County not contained in District 1, and Imperial County.

(c) District 3 consists of the Counties of Riverside, Orange, San Bernardino, and Los Angeles.

(d) District 4 consists of Ventura County.

(e) District 5 consists of the Counties of Santa Barbara, San Luis Obispo, Kern, Tulare, and all other counties of the state where avocados are produced not included in Districts 1, 2, 3, or 4.

The boundaries of any district may be changed pursuant to Section 67042.

67042. Districts shall be reapportioned as required by Section 67055.6, in accordance with the following procedures:

(a) The commission shall determine the average number of pounds of fruit actually produced by producers in each United States Postal Service zip code area in California in the two crop years prior to a referendum conducted pursuant to Section 67131. The average number of pounds of fruit so determined and the poundage from

each year shall be used only for purposes of this section.

(b) The commission shall, by adding the pounds in each zip code area, determine the total average number of pounds of avocados produced in California in the two prior crop years.

(c) The commission shall divide the total pounds by five and the resulting number shall be known as the "pro rata poundage."

(d) The commission shall determine if the poundage in any existing district, as specified in Section 67041, varies by more than 10 percent from the pro rata poundage. In the event that such variance exists, the commission shall draw new district lines so that no district shall vary by more than 10 percent from the pro rata poundage.

67043. Not later than 90 days after the close of the crop year as determined by the commission, handlers shall supply the information needed to carry out Section 67042 on a form prescribed by the commission.

67044. In the event that the commission is required to redistrict under Section 67042 and is unable, within 60 days following receipt of information received pursuant to such section, to agree upon district boundaries by a two-thirds vote, the commission shall notify the director who shall, within 10 days of receiving the notification, appoint an arbitrator. The arbitrator shall, within 80 days, reapportion existing districts to comply with the requirements of Section 67042.

67045. After the initial reapportionment required by Section 67055.6, the commission shall reapportion districts every five years in accordance with the procedures established by Section 67042.

SEC. 9. Section 67054 of the Food and Agricultural Code is amended to read:

67054. (a) Producer members and their alternates on the commission shall have a financial interest in producing, or causing to be produced, avocados for market. In order to be elected a commissioner or alternate, a producer shall, at the time of the election, have a financial interest in the production of avocados within the district in which the individual stands for election.

In the event that a producer has a financial interest in the production of avocados within more than one district, the producer may stand for election in any district in which the producer has a financial interest in the production of avocados. However, a producer who chooses to stand for election in a particular district shall not stand for election in any other district for a period of four years from the date of his most recent election to the commission.

(b) Handler members or their alternates shall have a financial interest in handling avocados for markets.

(c) Except for the election of another public member, the public member or his alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. He shall not have any financial interest in the avocado industry.

SEC. 10. Section 67055.5 is added to the Food and Agricultural

Code, to read:

67055.5. Commission members whose terms would otherwise expire in 1980 shall serve as commissioners for an additional year and such terms shall expire instead in 1981.

In the 1981 election of commission members, persons elected to positions, the terms for which would have expired in 1980 pursuant to Section 67055, shall serve for a one-year term, and persons elected to positions, the terms for which would have expired in 1981 pursuant to Section 67055, shall be elected for a two-year term.

Thereafter, the term of office for all commissioners, except ex officio members, shall be two years from the date of their election or until their successors are qualified. Nothing in this section permits any person to serve more than four consecutive terms.

SEC. 11. Section 67055.6 is added to the Food and Agricultural Code, to read:

67055.6. Prior to the election of commissioners in 1981, the commission shall, by two-thirds vote, reapportion the five districts pursuant to Section 67042.

SEC. 12. Section 67061 of the Food and Agricultural Code is amended to read:

67061. All moneys received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission, shall be deposited in such banks as the commission may designate and shall be disbursed by order of the commission through a commissioner, officer, or employee designated for that purpose. Any such person shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the commission, conditioned upon the strict accounting of all funds of the commission in the penal sum of not less than five hundred thousand dollars ($500,000).

SEC. 13. Section 67082 of the Food and Agricultural Code is amended to read:

67082. Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to such nomination and election procedures as shall be established by the rules and regulations adopted by the commission and approved by the director.

SEC. 14. Section 67083 of the Food and Agricultural Code is repealed.

SEC. 15. Section 67092 of the Food and Agricultural Code is amended to read:

67092. The powers or duties of the commission shall also include the following:

(a) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(b) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual independent audit by an auditing firm approved by the Department of Finance, and, in addition, the Department of Finance may by itself audit such books, records, and accounts, at any time. The independent audit shall be made a part of an annual report to all producers and handlers of avocados, copies of which shall also be submitted to the Legislature. In addition, the director may, as he determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(c) To promote the sale of avocados by advertising and other promotional means for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for avocados and to educate and instruct the public with respect to avocados and the uses and time to use the several varieties and the healthful properties and nutritional value of avocados.

(d) To enter into cost-sharing advertising with other products considered, by the commission, to be fair and equitable to both parties.

SEC. 16. Section 67102 of the Food and Agricultural Code is repealed.

SEC. 17. Section 67102 is added to the Food and Agricultural Code, to read:

67102. The provisions of this chapter do not apply to producers who produce avocados on a noncommercial basis for the producer's home use or where the avocado trees are used only for ornamental purposes. Such producers from whom assessments are collected may apply for the refund of assessment payments following the close of any marketing season in which payments have been made, and the commission shall refund such assessment payments if the producer can demonstrate to the satisfaction of the commission that the avocados were produced for noncommercial purposes.

SEC. 18. Section 67104 of the Food and Agricultural Code is amended to read:

67104. All the proprietary information obtained by the commission or the director from handlers shall be confidential and shall not be disclosed except when required in a judicial proceeding. The information on volume shipments, crop value, and any other such information which is required for reports to governmental agencies, financial reports to the commission, and any other such information which the handlers request from the commission to receive in total, excluding individual handler information, may be disclosed by the commission.

SEC. 19. Section 67111 of the Food and Agricultural Code is amended to read:

67111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment,

for any person to do any of the following:

(a) Willfully to render or furnish a false report, statement, or record required by the commission

(b) When engaged in the shipping of avocados or in the wholesale or retail trade of avocados, to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he has received avocados and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

SEC. 20. Section 67112 of the Food and Agricultural Code is amended to read:

67112. The commission shall adopt regulations for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for such purpose. One member of the commission, or the committee of the commission, shall serve as clerk of the hearing, and shall keep a written record of appearances at the hearing, documents filed, and a summary of oral presentations. The determination made at such hearing shall be communicated in writing by the clerk to the participants in the hearing. Appeals from decisions the commission made after such hearing, may be made to the director, who shall sustain the position of the commission, if he determines that it is supported by substantial evidence and was not an abuse of discretion or the result of improper procedures. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court.

The commission shall be empowered to commence civil actions and to utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting the provisions of this chapter and the rules and regulations adopted under this chapter. The commission shall be entitled, upon a favorable verdict for the commission, to receive reimbursement for any reasonable attorney's fees and other actual related costs incurred in any action commenced by the commission for the enforcement of the provisions of this chapter. However, this section does not authorize attorney's fees and other actual related costs for any action commenced prior to January 1, 1980. Venue for actions commenced by the commission may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission.

The commission may be sued only in the county of its principal office. All documents required to be executed by the commission, for the purpose of legal action or otherwise, shall be effective if executed by the chairman and the manager or three members of the commission designated by the commission to so act.

SEC. 21. Section 67121.5 of the Food and Agricultural Code is amended to read:

67121.5. In finding whether the commission is assented to in

writing or approved or favored by producers pursuant to the provisions of this article, the vote of any nonprofit agricultural cooperative marketing or bargaining association, which is authorized by its members, shall be considered as being the assent, approval, or rejection by the producers that are members of, or stockholders in, such nonprofit agricultural cooperative marketing or bargaining association.

SEC. 22. Section 67124 of the Food and Agricultural Code is amended to read:

67124. If the director finds that such favorable vote has been given as provided in Section 67122, he shall certify and give notice of such favorable vote to all producers and handlers whose names and addresses may be on file with the director. All provisions of this chapter shall become operative upon completion of such publication and before 15 days after such certification by the director.

SEC. 23. Section 67131 of the Food and Agricultural Code is amended to read:

67131. Between November 1, 1980, and October 31, 1981, the director shall cause a referendum to be conducted by the commission among producers in the manner prescribed in Section 67131.5 to determine whether the operations of the provisions of this chapter shall be reapproved and continued effective. If the director finds that a favorable vote has been given, he shall so certify and all provisions of this chapter shall remain effective. If the director finds that a favorable vote has not been given, he shall so certify and declare the operation of the provisions of this chapter and the commission suspended upon the expiration of the current marketing season ending October 31, 1981. Thereupon, the operations of the commission shall be wound up and funds distributed in the manner provided in Section 67133. No bond or security shall be required for any such referendum. Following the referendum conducted prior to October 31, 1981, a referendum shall be conducted by the director every fifth year thereafter between November 1st and October 31st.

A vote of any nonprofit agricultural marketing or bargaining association, which is authorized by its members, shall be considered as being the vote in favor of or against suspension by the producers that are members of, or stockholders in, such nonprofit agricultural marketing or bargaining association.

SEC. 24. Section 67131.5 is added to the Food and Agricultural Code, to read:

67131.5. The operations of this chapter shall be reapproved and continued in effect if the director finds, in the referendum conducted by the director pursuant to Section 67131 and participated in by at least a majority of the total number of producers, as determined from the list established by the director, producing at least 40 percent of the total volume of avocados marketed during the last completed marketing season, one or more of the following:

(a) That not less than 65 percent of the producers certified by the director who voted in the referendum voted in favor of the

provisions of this chapter, and that such producers so voting marketed a majority percent or more of the total quantity of avocados marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) That at least a majority of such producers who voted in such referendum voted in favor of the provisions of this chapter and that such producers so voting marketed 65 percent or more of the total quantity of avocados marketed in the preceding marketing season by all of the producers who voted in the referendum.

SEC. 25. Section 67131.6 is added to the Food and Agricultural Code, to read:

67131.6. For purposes of Sections 67131 and 67131.5, a vote of any nonprofit agricultural marketing or bargaining association, which is authorized by its members, shall be considered as being the vote for or against suspension by the producers that are members of, or stockholders in, the nonprofit agricultural marketing or bargaining association. Any such association which votes in favor of or against suspension on behalf of producers who are members of, or stockholders in, the association shall vote only the votes of those members who both sold avocados and paid the assessment on them in the previous crop year.

In the event that two such associations authorized to cast votes on behalf of their members shall vote the vote of the same person, the director shall count the vote of the association which owns title to the avocados of the person in question.

CHAPTER 722

An act to add Section 31656 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 31656 is added to the Government Code, to read:

31656. Nothing in the County Employees Retirement Law of 1937 shall be construed to prohibit any district established pursuant to Part 4 (commencing with Section 40000) of Division 10 of the Public Utilities Code, from extending retirement service credit pursuant to Section 40127 of the Public Utilities Code to any employee of the district who is on an authorized leave of absence on and after January 1, 1981, to serve as a full-time official of a recognized employee bargaining unit, under all of the following conditions:

(a) The employee or the district, or both, as determined pursuant

to applicable provisions of this part, agree to pay the total contributions which would otherwise be paid if the employee were not on leave, as well as any additional costs which may accrue to the system as a result of this extension of coverage.

(b) The maximum service credit accumulated under this section shall not exceed eight years.

(c) Employees covered under this section shall not be eligible for disability benefits under any public employees' retirement system in this state while on such leave of absence.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

CHAPTER 723

An act to amend Sections 34312, 34315, 34321, 34324, and 34357 of the Health and Safety Code, relating to housing.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may:

(a) Prepare, carry out, acquire, lease, and operate housing projects for persons of low income as authorized by this chapter and housing developments for persons of low income as authorized by Part 3 (commencing with Section 50900) of Division 31.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) Provide financing for the construction or rehabilitation (including refinancing of existing obligations on the property to be rehabilitated) of dwelling accommodations for persons of low income, and for other persons when acting pursuant to authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31, subject only to the limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 50094.

(e) Provide counseling, referral, and advisory services to persons and families of low or moderate income in connection with the

purchase, rental, occupancy, maintenance, or repair of housing.

(f) Provide such security, as the authority deems necessary, for the protection of a project and its inhabitants.

SEC. 2. Section 34315 of the Health and Safety Code is amended to read:

34315. An authority may:

(a) Lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project and establish and revise the rents or charges for them.

(b) Own, hold, and improve real or personal property.

(c) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in property.

(d) Acquire any real property by eminent domain.

(e) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in it.

(f) Insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.

(g) Lend upon the security of a mortgage or deed of trust, directly or by purchase from one or more qualified mortgage lenders, in connection with the sale of real property to persons of low income, the financing of construction or rehabilitation pursuant to this part, or the implementation of government housing and rehabilitation financing programs for persons of low income, and for other persons when acting pursuant to authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31, subject only to the limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 50094.

(h) Procure insurance or guarantees from the federal government or the California Housing Finance Agency or from any person licensed to insure mortgages in this state of the payment of all or part of any debts, whether or not incurred by the authority, secured by mortgages or deeds of trust on any property included in any of its housing projects or otherwise financed pursuant to this chapter or secured by mortgages or deeds of trust pursuant to Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31.

SEC. 3. Section 34321 of the Health and Safety Code is amended to read:

34321. It is declared to be the policy of the State that each authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations, and

that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the county. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it finds necessary to produce revenue which, together with all other available money, income, and receipts of the authority, will be sufficient for all of the following:

(a) To pay, when due, the principal and interest on its bonds.

(b) To meet the cost of, and to provide for, maintaining and operating the projects, including the cost of any insurance, and the administrative expenses of the authority.

(c) During not less than the six years immediately succeeding its issuance of any bonds, to create a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain the reserve. However, this subdivision shall not be construed to prevent an authority from utilizing any financial aid from the federal government to the maximum extent available.

This section shall not apply to any person, individual, firm, partnership, company, association, joint stock association or corporation other than a public entity having an interest in any housing project owned in part or constructed or operated by one or more authorities.

SEC. 4. Section 34324 of the Health and Safety Code is amended to read:

34324. Any two or more authorities may join or co-operate with one another in the exercise either jointly or otherwise, of any or all of their powers for the purpose of financing, including, but not limited to, the issuance of bonds, notes, or other obligations and giving security therefor, or planning, undertaking, owning, constructing, rehabilitating, or operating, or entering into any contract with respect to, any housing project or projects or other dwelling accommodations located within the area of operation of any one or more of such authorities. For any such purpose, one authority may provide by resolution that another authority with which it has joined or is co-operating in the exercise of powers is authorized to act on its behalf with respect to any or all of the powers, as its agent or otherwise, in its name, the name of such other authority, or in the names of the authorities which have joined or are co-operating.

SEC. 5. Section 34357 of the Health and Safety Code is amended to read:

34357. In any proceedings involving the validity or enforceability of any bond or its security, any such bond reciting in substance that it has been issued by the authority to aid in financing dwelling accommodations for persons of low income, is conclusively deemed to have been issued for such purpose pursuant to this chapter.

CHAPTER 724

An act to add Section 1501.1 to the Health and Safety Code, relating to care facilities.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 1501.1 is added to the Health and Safety Code, to read:

1501.1. (a) It is the policy of the state to facilitate the proper placement of every child in residential care facilities where such placement is in the best interests of the child. The placement agencies shall actively seek out-of-home care facilities capable of meeting the varied needs of the child. Therefore, in placing children in out-of-home care, particular attention should be given to the individual child's needs, the ability of the facility to meet those needs, the needs of other children in the facility, the licensing requirements of the facility as determined by the licensing agency, and the impact of the placement on the family reunification plan.

(b) Pursuant to the provisions of this section, children with varying designations and varying needs, except as provided by statute, shall not be precluded from being placed in the same facility provided the facility is licensed, and has a special permit if necessary, to meet the needs of each child so placed. Neither the requirement for any license nor any regulation shall restrict the implementation of the provisions of this section. Implementation of this section does not obviate the requirement for a facility to be licensed by the department.

CHAPTER 725

An act to amend Sections 1231, 1231.1, 10107, 21007, 21008.5, 21206, 21669.2, 21669.3, 21670, 21670.1, 21675, 21682.5, 21683, 21684, and 29031 of, to repeal Section 130060 of, and to repeal Article 4 (commencing with Section 130290) of Chapter 4 of Division 12 of, the Public Utilities Code, to amend Section 25 of Chapter 1243 of the Statutes of 1971, and to repeal Sections 4 and 5 of Chapter 1428 of the Statutes of 1974, relating to transportation.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Section 1231 of the Public Utilities Code is amended to read:

1231. The commission shall allocate and expend any money which may be appropriated, from the State Highway Account in the State Transportation Fund or any other fund, for the purposes specified herein, to cities, counties, and cities and counties, on the basis of need as determined by the commission, to assist them in paying their shares of the cost of constructing grade-crossing protection works on city, county, and city and county streets, roads, and highways. In no event, however, shall the commission allocate or expend to any city, county, or city and county a sum exceeding one-half of its share of the cost of such work.

Funds appropriated for the purposes specified herein shall be available for allocation and expenditure without regard to fiscal years.

SEC. 2. Section 1231.1 of the Public Utilities Code is amended to read:

1231.1. In each annual proposed budget prepared by the Department of Transportation under Section 165 of the Streets and Highways Code, a sum not to exceed one million dollars ($1,000,000) shall be set aside for allocations to the Public Utilities Commission, for the purpose of paying to the railroad or street railroad corporations the share of the cost to cities, counties, and cities and counties of maintaining automatic grade-crossing protection. Payment shall be made on the basis of verified claims filed with the commission by the railroad or street railroad corporation responsible for maintenance of automatic grade-crossing protection. The specific amount of the total allocation shall be determined by the California Transportation Commission and shall constitute the amount necessary for such maintenance. In arriving at such amount, the California Transportation Commission shall consult with representatives of the Public Utilities Commission. Any amounts not expended by the Public Utilities Commission in any one fiscal year may be credited to subsequent annual allocations.

Funds appropriated for the purposes specified herein shall be available for allocation and expenditure without regard to fiscal years.

SEC. 3. Section 10107 of the Public Utilities Code is amended to read:

10107. Nothing in this article limits in any respect the jurisdiction, powers, and duties vested by law in the Public Utilities Commission or, with respect to state highways, in the Department of Transportation. In the event of any conflict of jurisdiction, that of the Public Utilities Commission or the Department of Transportation, as the case may be, shall prevail.

SEC. 4. Section 21007 of the Public Utilities Code is amended to read:

21007. Whenever the term "California Aeronautics Commission," "Division of Aeronautics," or "Department of

Aeronautics" is used in any other law, it means the Department of Transportation.

SEC. 5. Section 21008.5 of the Public Utilities Code is amended to read:

21008.5. "Commission" means the California Transportation Commission.

SEC. 6. Section 21206 of the Public Utilities Code is amended to read:

21206. The department shall prepare a statement of all estimated revenues of the Aeronautics Account in the State Transportation Fund and revenues available for local subventions from any other sources for the next succeeding fiscal year, together with a statement of proposed expenditures to be made to local agencies and the University of California during the next succeeding fiscal year, or obligations to be incurred in connection therewith.

The statement shall be included in the printed fiscal year budget submitted to the Legislature. Insofar as the matters to which it pertains, it shall constitute as submitted the budget submitted to the Department of Finance pursuant to Section 13320 of the Government Code, and, as to such matters, shall be administered by the Department of Finance as the fiscal year budget of the Department of Transportation under the provisions of this section and of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

Any changes or modifications in the budget described in this section shall be approved by the Director of Finance.

In the event, during an annual period, the budgetary amount approved and allocated for any purpose exceeds the amount actually necessary therefor, with a resultant available surplus, such surplus may be allocated to any other purpose or supplemental project upon the written approval of the Director of Finance.

In administering the budget, the Director of Finance shall not limit expenditures or incurrence of obligations thereunder to quarterly, semiannual, or other periods of the fiscal year.

SEC. 7. Section 21669.2 of the Public Utilities Code is amended to read:

21669.2. In its deliberations, the department and the advisory committee shall be governed by the following guidelines:

(a) Statewide uniformity in standards of acceptable airport noise need not be required, and the maximum amount of local control and enforcement shall be permitted.

(b) Due consideration shall be given to the economic and technological feasibility of complying with the standards promulgated by the department.

SEC. 8. Section 21669.3 of the Public Utilities Code is amended to read:

21669.3. Any regulations designed to establish a noise monitoring program at an airport entering service after November 30, 1971, shall go into effect on the date the airport enters service.

SEC. 9. Section 21670 of the Public Utilities Code is amended to read:

21670. There is hereby created, in each county subject to this article and containing at least one airport operated for the benefit of the general public and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, an airport land-use commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(a) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county; provided, however, that, if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(b) Two representing the county, appointed by the board of supervisors.

(c) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county; however, one such representative shall be appointed from an airport operated for the benefit of the general public.

(d) One representing the general public, appointed by the other six members of the commission.

Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the member who appointed him. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

SEC. 10. Section 21670.1 of the Public Utilities Code is amended to read:

21670.1. Notwithstanding any provisions of this article, if the board of supervisors and the city selection committee of mayors in any county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then such body shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

SEC. 11. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) The commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public

airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision shall not give the commission any jurisdiction or authority over the territory or operations of any such military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

SEC. 12. Section 21682.5 of the Public Utilities Code is amended to read:

21682.5. The department shall pay, from the Aeronautics Account to the Transportation Planning and Development Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation duties attributable to aviation planning and research, as determined by the Secretary of the Business and Transportation Agency.

SEC. 13. Section 21683 of the Public Utilities Code is amended to read:

21683. Any balance remaining in the Aeronautics Account, after the payments made under Section 21682, shall be used at the discretion of the commission for airport and aviation purposes, subject to the provisions of Section 21684.

Any public entity may apply to the department each year for the allocation of funds for the acquisition or development of airports. The commission may, pursuant to rules and regulations promulgated by the department, make an allocation to such public entity if it determines that the proposed acquisition or development is feasible and in accordance with the policies and standards established by the department. The department shall make recommendations to the commission on all applications. Such allocations shall be represented as subventions in the department budget in accordance with Section 21206.

No moneys paid under this section shall be expended for operation and maintenance. No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct such activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

SEC. 14. Section 21684 of the Public Utilities Code is amended to read:

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity pursuant to Section 21682 or 21683 unless the public entity deposits in its special aviation fund, for expenditures solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on a rate established annually by the commission as matching funds. The commission shall establish a rate of at least 10 percent and not exceeding 50 percent of the nonfederal funded portion; provided, such rate shall be uniform for all entities and projects within a particular year. In no event shall the sum deposited in the special aviation fund be less than 10 percent of the total eligible project costs.

Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay a sum of five thousand dollars ($5,000) annually to each city, county, airport district, or the University of California owning and operating an airport in accordance with subdivision (a) of Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21682 or 21683 unless the university deposits in its special aviation fund, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the commission pursuant to subdivision (a), or unless a city located within 10 miles of the airport, or the county within which the airport is located, pays to the university a sum based on the rate established by the commission pursuant to subdivision (a); provided, however, that any such sums deposited by the university or paid by such city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

(c) Payments made by the department pursuant to Section 21682 and funds provided by public entities to match these payments may be accrued for a period of not more than three years. Extension of time for accrual of these funds for major projects shall be obtained from the department.

SEC. 15. Section 29031 of the Public Utilities Code is amended to read:

29031. The district may acquire, construct, own, operate, control,

or use rights-of-way, rail lines, bus lines, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities necessary or convenient for rapid transit service within or partly without the district, underground, upon, or above the ground and under, upon, or over public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary or convenient for the access of persons and vehicles thereto, and may acquire any interest in or rights to the use or joint use of any or all of the foregoing; provided, that installations in state freeways shall be subject to the approval of the Department of Transportation and installations in other state highways shall be subject to Article 2 (commencing with Section 670), Chapter 3, Division 1 of the Streets and Highways Code.

SEC. 16. Section 130060 of the Public Utilities Code is repealed

SEC. 17. Article 4 (commencing with Section 130290) of Chapter 4 of Division 12 of the Public Utilities Code is repealed.

SEC. 18. Section 25 of Chapter 1243 of the Statutes of 1971 is amended to read:

Sec. 25. By enacting Section 24 of this act to repeal Chapter 20 of the Statutes of 1952, Second Extraordinary Session, it is the intent of the Legislature that loans for the acquisition of properties for state highway purposes shall be retired by the operation of Section 2108 of the Streets and Highways Code.

Furthermore, it was not the intent of the Legislature in enacting Chapter 20 of the Statutes of 1952, Second Extraordinary Session, nor is it the intent of the Legislature in repealing this chapter, to establish any limit on the amount of funds utilized for the right-of-way advanced acquisition program. The California Transportation Commission and the Department of Transportation may use any available funds, including the money specified in Section 26 of this act, for temporary investment in the right-of-way advanced acquisition program.

SEC. 19. Section 4 of Chapter 1428 of the Statutes of 1974 is repealed.

SEC. 20. Section 5 of Chapter 1428 of the Statutes of 1974 is repealed.

SEC. 21. Any section of any act enacted by the Legislature during the 1980 portion of the 1979–80 Regular Session, which takes effect on or before January 1, 1981, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 726

An act to amend Section 41704 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 41704 of the Health and Safety Code is amended to read:

41704. Section 41701 shall not apply to:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where such facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall such emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision shall not apply to any such rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to January 1, 1978, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels using steam boilers during cold boiler light-off operations and while drying wet or green refractory to the

extent that such emissions, excluding uncombined water vapor, are not as dark or darker in shade than that designated as Number 2 on the Ringelmann chart or of an opacity equal to, or greater than, 40 percent for periods aggregating more than 15 minutes in any one hour. This subdivision shall remain in effect only until January 1, 1984, and shall be of no force and effect on and after such date.

(*l*) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions shall not be applicable to such equipment.

(m) Smoke emissions from teepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues or forestry and agricultural residues with supplementary fossil fuels, when such emissions result from the startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

(n) Smoke emissions from burners used to produce energy and fired by forestry and agricultural residues with supplementary fossil fuels when such emissions result from startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

SEC. 2. Section 41704 of the Health and Safety Code is amended to read:

41704. Section 41701 shall not apply to:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations

necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where such facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall such emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision shall not apply to any such rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to January 1, 1978, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels using steam boilers during cold boiler light-off operations and while drying wet or green refractory to the extent that such emissions, excluding uncombined water vapor, are not as dark or darker in shade than that designated as Number 2 on the Ringelmann chart or of an opacity equal to, or greater than, 40 percent for periods aggregating more than 15 minutes in any one hour. This subdivision shall remain in effect only until January 1, 1984, and shall be of no force and effect on and after such date.

(*l*) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions shall not be applicable to such equipment.

(m) Smoke emissions from teepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues or forestry and agricultural residues with supplementary fossil fuels when such emissions result from the startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision shall not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

(n) Smoke emissions from burners used to produce energy and fired by forestry and agricultural residues with supplementary fossil fuels when such emissions result from startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes

in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

(o) Emissions from methanol fuel manufacturing plants which manufacture not more than 2,000,000 gallons of methanol fuel per day from wood, agricultural waste, natural gas, or coke (exclusive of petroleum coke). As used in this subdivision, "manufacturing plant" shall include all necessary support systems, including field operations equipment that provide feed stock. However, this subdivision shall apply to not more than one such methanol fuel manufacturing plant in each air basin and each such plant shall be located in an area designated as an "attainment area" pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and shall meet all applicable standards required by the district board. This subdivision shall remain in effect with respect to such a plant until five years after construction of the plant and shall have no force and effect with respect to such a plant on and after such date.

SEC. 3. Section 41704 of the Health and Safety Code is amended to read:

41704. Section 41701 shall not apply to:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where such facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall such emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision shall not apply to any such rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to January 1, 1978, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels using steam boilers during cold boiler light-off operations and while drying wet or green refractory to the extent that such emissions, excluding uncombined water vapor, are not as dark or darker in shade than that designated as Number 2 on the Ringelmann chart or of an opacity equal to, or greater than, 40 percent for periods aggregating more than 15 minutes in any one hour. This subdivision shall remain in effect only until January 1, 1984, and shall be of no force and effect on and after such date.

(*l*) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions shall not be applicable to such equipment.

(m) Smoke emissions from teepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues or forestry and agricultural residues with supplementary fossil fuels when such emissions result from the startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision shall not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

(n) Smoke emissions from burners used to produce energy and fired by forestry and agricultural residues with supplementary fossil fuels when such emissions result from startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

(o) Emissions from methanol fuel manufacturing plants which manufacture not more than 2,000,000 gallons of methanol fuel per day from wood, agricultural or municipal waste, natural gas, or coke (exclusive of petroleum coke). As used in this subdivision, "manufacturing plant" shall include all necessary support systems, including field operations equipment that provide feed stock. However, this subdivision shall apply to not more than one such methanol fuel manufacturing plant in each air basin and each such plant shall be located in an area designated as an "attainment area" pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and shall meet all applicable standards required by the district board. This subdivision shall remain in effect with respect to such a plant until

five years after construction of the plant and shall have no force and effect with respect to such a plant on and after such date.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 3158 are both chaptered, or if this bill and Assembly Bill No. 3158 and Senate Bill No. 1922 are all chaptered, and become effective January 1, 1981, both or all bills amend Section 41704 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 3158, or after Assembly Bill No. 3158 and Senate Bill No. 1922, that the amendments to Section 41704 proposed by both or all bills be given effect and incorporated in Section 41704 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 3158 are both chaptered, or if this bill and Assembly Bill No. 3158 and Senate Bill No. 1922 are all chaptered, and become effective January 1, 1981, both or all bills amend Section 41704, and this bill is chaptered after Assembly Bill No. 3158, or after Assembly Bill No. 3158 and Senate Bill No. 1922, in which case Sections 1 and 3 of this act shall not become operative.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 1922 are both chaptered and become effective January 1, 1981, both bills amend Section 41704 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1922, that the amendments to Section 41704 proposed by both bills be given effect and incorporated in Section 41704 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill No. 1922 are both chaptered and become effective January 1, 1981, both amend Section 41704, and this bill is chaptered after Senate Bill No. 1922, in which case Sections 1 and 2 of this act shall not become operative.

CHAPTER 727

An act to amend Section 490.5 of the Penal Code, relating to arrest.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 490.5 of the Penal Code is amended to read:

490.5. (a) Upon a first conviction for petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, a person shall be punished by a mandatory fine of not less than fifty dollars ($50) and not more than one thousand dollars ($1,000) for each such violation; and may also be punished by imprisonment in the county jail, not exceeding six months, or both such fine and imprisonment.

(b) When an unemancipated minor's willful conduct would

constitute petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, any merchant or library facility who has been injured by such conduct may bring a civil action against the parent or legal guardian having control and custody of the minor. For the purposes of such actions the misconduct of the unemancipated minor shall be imputed to the parent or legal guardian having control and custody of the minor. The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this subdivision shall be jointly and severally liable with the minor to a merchant for the retail value of his merchandise, if not recovered in merchantable condition or to a library facility for the fair market value of its book or other library materials, plus damages of not less than fifty dollars ($50) nor more than five hundred dollars ($500) plus costs. Recovery of such damages may be had in addition to, and is not limited by, any other provision of law which limits the liability of a parent or legal guardian for the tortious conduct of a minor. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of such court, or in any other appropriate court; however, total damages, including the value of the merchandise or book or other library materials, shall not exceed five hundred dollars ($500) for each action brought under this section.

The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies, except that the provisions of Section 1714.1 of the Civil Code shall not apply herein.

(c) In lieu of the fines prescribed by subdivision (a), any person may be required to perform public services designated by the court, provided that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the fine assessed by the court as provided by subdivision (a) at the minimum wage prevailing in the state at the time of sentencing.

(d) All fines collected under this section shall be collected and distributed in accordance with Sections 1463 and 1463.1 of the Penal Code; provided, however, that a county may, by a majority vote of the members of its board of supervisors, allocate any amount up to, but not exceeding 50 percent of such fines to the county superintendent of schools for allocation to local school districts. The fines allocated shall be administered by the county superintendent of schools to finance public school programs, which provide counseling or other educational services designed to discourage shoplifting, theft, and burglary. Subject to rules and regulations as may be adopted by the Superintendent of Public Instruction, each county superintendent of schools shall allocate such funds to school districts within the county which submit project applications designed to further the educational purposes of this section. The costs of administration of this section by each county superintendent

of schools shall be paid from the funds allocated to the county superintendent of schools.

(e) (1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises.

A person employed by a library facility may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by a library facility has probable cause to believe the person to be detained is attempting to unlawfully remove or has unlawfully removed books or library materials from the premises of the library facility.

(2) In making the detention a merchant or a person employed by a library facility may use a reasonable amount of nondeadly force necessary to protect himself and to prevent escape of the person detained or the loss of property.

(3) During the period of detention any items which a merchant or any items which a person employed by a library facility has reasonable cause to believe are unlawfully taken from the premises of the merchant or library facility and which are in plain view may be examined by the merchant or person employed by a library facility for the purposes of ascertaining the ownership thereof.

(4) A peace officer who accepts custody of a person arrested for an offense contained in this section may, subsequent to the arrest, search the person arrested and his or her immediate possessions for any item or items alleged to have been taken.

(5) In any action for false arrest, false imprisonment, slander or unlawful detention brought by any person detained by a merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had stolen or attempted to steal merchandise and that the merchant acted reasonably under all the circumstances.

In any action for false arrest, false imprisonment, slander or unlawful detention brought by any person detained by a person employed by a library facility, it shall be a defense to such action that the person employed by a library facility detaining such person had probable cause to believe that the person had stolen or attempted to steal books or library materials and that the person employed by a library facility acted reasonably under all the circumstances.

(f) As used in this section:

(1) "Merchandise" means any personal property, capable of manual delivery, displayed, held or offered for retail sale by a merchant.

(2) "Merchant" means an owner or operator, and the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises used for the retail purchase or sale of any personal property capable of manual delivery.

(3) The terms "book or other library materials" include any book,

plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual material in any format, magnetic or other tape, electronic data processing record, artifact, or other documentary, written or printed material regardless of physical form or characteristics, or any part thereof, belonging to, on loan to, or otherwise in the custody of a library facility.

(4) The term "library facility" includes any public library; any library of an educational, historical or eleemosynary institution, organization or society; any museum; any repository of public records.

(g) Any library facility shall post at its entrance and exit a conspicuous sign to read as follows:

IN ORDER TO PREVENT THE THEFT OF BOOKS AND LIBRARY MATERIALS, STATE LAW AUTHORIZES THE DETENTION FOR A REASONABLE PERIOD OF ANY PERSON USING THESE FACILITIES SUSPECTED OF COMMITTING "LIBRARY THEFT" (PENAL CODE SECTION 490.5).

CHAPTER 728

An act to add Article 7 (commencing with Section 60690) to Chapter 5 of Part 33 of the Education Code, relating to school testing programs.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Article 7 (commencing with Section 60690) is added to Chapter 5 of Part 33 of the Education Code, to read:

Article 7. Testing, Elementary and Secondary Education Act of 1965

60690. For purposes of implementing the provisions of Title 1 of the Elementary and Secondary Education Act of 1965, as amended, and to the extent authorized by federal law, the State Board of Education and the Department of Education shall not require more than one standardized achievement test to be administered per year, per pupil.

SEC. 2. (a) The Legislative Analyst shall prepare a report relating to the feasibility of limiting the classroom administration of tests, required by state statute or regulation to be administered statewide, to one such test per year, per pupil, per subject area.

(b) The report shall be based, in whole or in part, on information

collected from, and activities conducted under, 1979–80 school district test consolidation projects.

(c) The report shall, by January 31, 1981, be submitted to the Senate Education Committee and the Assembly Education Committee.

CHAPTER 729

An act to amend Section 7155.3 of the Financial Code, relating to savings and loan associations.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 7155.3 of the Financial Code is amended to read:

7155.3. Subject to the regulations of the commissioner, an association may make loans or advances of credit, or invest in interests therein, on the security of residential real property and real property used or to be used for commercial farming enterprises, which loans, advances of credit or investments are not otherwise authorized under the law because of the following reasons: (1) the security interest is not a first lien; (2) the loan-to-value ratio, stated maturity, or loan amount is in excess of the maximum allowable limits; (3) lack of any required borrower certification or required private mortgage insurance; (4) the loan would cause an applicable percentage-of-assets category to be exceeded; or (5) a combination of the foregoing factors. Investments made under the authority of this section, which shall not exceed five percent of an association's total assets, are subject to the following:

(a) No association shall have investments under this section aggregating at any one time more than an amount equal to the lesser of (i) two percent of its total assets plus one-half percent of total assets for each percentage point of statutory net worth in excess of four percent of assets or (ii) five percent of its total assets. If the percentage of assets limitation imposed by (i) is less than five percent, the association may invest an amount equal to the difference between (i) and (ii) in loans secured by one to four family, owner-occupied residences;

(b) Each investment made under this section shall be fully documented to support the conclusion that it was made on a prudent basis;

(c) A secured investment will be deemed to be unsecured to the extent that it exceeds the appraised value or purchase price of the security therefor, whichever is less, at the time the investment is made.

The following types of investments shall be deemed not to have been made pursuant to this section: (1) investments authorized to be made under other authority; (2) investments which were made under the authority of this section, but were later authorized to be made under other authority; and (3) investments made under other authority that was subsequently revoked.

CHAPTER 730

An act to amend Section 1316.5 of the Health and Safety Code, relating to health.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 1316.5 of the Health and Safety Code is amended to read:

1316.5. (a) The rules of a health facility may enable the appointment of clinical psychologists on such terms and conditions as the facility shall establish. In such health facilities, clinical psychologists may hold membership and serve on committees of the medical staff and carry professional responsibilities consistent with the scope of their licensure and their competence, subject to the rules of the health facility.

Nothing in this section shall be construed to require a health facility to offer a specific health service or services not otherwise offered. If a health service is offered by a health facility with both licensed physicians and surgeons and clinical psychologists on the medical staff, which both licensed physicians and surgeons and clinical psychologists are authorized by law to perform, such service may be performed by either, without discrimination.

This subdivision shall not prohibit a health facility which is a clinical teaching facility owned or operated by a university operating a school of medicine from requiring that a clinical psychologist have a faculty teaching appointment as a condition for eligibility for staff privileges at that facility.

In any health facility providing staff privileges to clinical psychologists, the health facility staff processing, reviewing, evaluating, and determining qualifications for staff privileges for medical staff shall include, if possible, staff members who are clinical psychologists.

(b) No classification of health facilities by the state department, nor any other classification of health facilities based on quality of service or otherwise, by any person, body, or governmental agency of this state or any subdivision thereof shall be affected by a health facility's provision for use of its facilities by duly licensed clinical

psychologists, nor shall any such classification be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff. No classification of health facilities by any governmental agency of this state or any subdivision thereof pursuant to any law, whether enacted prior or subsequent to the effective date of this section, for the purposes of ascertaining eligibility for compensation, reimbursement, or other benefit for treatment of patients shall be affected by a health facility's provision for use of its facilities by duly licensed clinical psychologists, nor shall any such classification be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff which govern the psychologists' use of the facilities.

(c) "Clinical psychologist," as used in this section, means a psychologist licensed by this state and (1) who possesses an earned doctorate degree in psychology from an educational institution meeting the criteria of subdivision (c) of Section 2914 of the Business and Professions Code and (2) has not less than two years clinical experience in a multidisciplinary facility licensed or operated by this or another state or by the United States to provide health care, or, is listed in the latest edition of the National Register of Health Service Providers in Psychology, as adopted by the Council for the National Register of Health Service Providers in Psychology.

CHAPTER 731

An act to amend Section 11580.2 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, his heirs or his legal representative for all

sums within such limits which he or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) with respect to a natural person or persons designated by name when operating a motor vehicle. Either of such deletions by any named insured shall be binding upon every insured to whom such policy or endorsement provisions apply while such policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement of such policy by the named insured, or with respect to reinstatement of such policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or with respect to one or more natural persons designated by name when operating a motor vehicle. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the financial responsibility limits which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

Such agreement may contain additional statements not in derogation of or conflict with the foregoing. The execution of such agreement shall relieve the insurer of liability under this section while such agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term

"insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household while being operated by the named insured or his spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(A) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(B) The insured or someone on his behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has or the insured's heirs have a cause of action arising out of such accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include an automobile owned by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its

insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of such accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of such person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from an automobile other than the described automobile if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to him under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bears to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him, the damages which he shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under such automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his insurer, his legal representative, or his heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, such claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) such claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to such determinations, and all rights, remedies, obligations, liabilities and procedures set forth in such Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in such Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of such Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under such Article 3 with respect to the same accident, subject, however, to the right of such court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the

Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person causing such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him, his executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction, or

(2) Agreement as to the amount due under the policy has been

concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to such injury or death. Failure of the insurer to provide such written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date such written notice is actually given.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing transportation to senior citizens or physically or mentally handicapped persons. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed twenty-two cents ($0.22) per mile actually driven. As used in this section, "senior citizen" means a person 60 years of age or older. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

SEC. 1.3. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, his heirs or his legal representative for all sums within such limits which he or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent

to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) with respect to a natural person or persons designated by name when operating a motor vehicle. Either of such deletions by any named insured shall be binding upon every insured to whom such policy or endorsement provisions apply while such policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement of such policy by the named insured, or with respect to reinstatement of such policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or with respect to one or more natural persons designated by name when operating a motor vehicle. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the financial responsibility limits which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

Such agreement may contain additional statements not in derogation of or conflict with the foregoing. The execution of such agreement shall relieve the insurer of liability under this section while such agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or

a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household while being operated by the named insured or his spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(A) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(B) The insured or someone on his behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has or the insured's heirs have a cause of action arising out of such accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include an automobile owned by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents

occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of such accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of such person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from an automobile other than the described automobile if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to him under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bears to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectable automobile medical payment insurance available to him, the damages which he shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under such automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled

to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his insurer, his legal representative, or his heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, such claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) such claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to such determinations, and all rights, remedies, obligations, liabilities and procedures set forth in such Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in such Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of such Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under such Article 3 with respect to the same accident, subject, however, to the right of such court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause

shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person causing such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him, his executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to such injury or death. Failure of the insurer to provide such written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date such written notice is actually given.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing transportation to senior citizens or physically or mentally handicapped persons. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed twenty-two cents ($0.22) per mile actually driven. As used in this section, "senior citizen" means a person 60 years of age or older. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

SEC. 1.6. It is the intent of the Legislature, if this bill and Assembly Bill 2418 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 11580.2 of the Insurance Code, and this bill is chaptered after Assembly Bill 2418, that Section 11580.2 of the Insurance Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 2418, and that on the effective date of Assembly Bill 2418 Section 11580.2 of the Insurance Code, as amended by Section 1 of this act, be further amended in the form set forth in Section 1.3 of this act to incorporate the changes in Section 11580.2 proposed by Assembly Bill 2418. Therefore, if this bill and Assembly Bill 2418 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2418 is chaptered before this bill and amends Section 11580.2, Section 1.3 of this act shall become operative on the effective date of Assembly Bill 2418.

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

Certain local agencies engage in programs to provide meals for

senior citizens through volunteers using their own automobiles. Automobile liability coverage for such volunteer services may not be excluded from any policy as long as the remuneration does not exceed twenty-two cents ($0.22) per mile actually driven. With respect to uninsured motorist coverage, it may not be excluded as long as the remuneration does not exceed fifteen cents ($0.15) per mile actually driven. In order to permit the continuation of participation in such programs by volunteer drivers and to equalize the maximum amount of remuneration such volunteer drivers may receive, it is necessary that this act take effect immediately.

CHAPTER 732

An act to amend Section 34906 of the Government Code, relating to cities.

[Approved by Governor July 26, 1980 Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 34906 of the Government Code is amended to read:

34906. Notwithstanding Section 36503, if a city has an elected mayor and the election of the remaining members of the city council for four-year terms is not evenly staggered, the city council may, on a one-time basis only and prior to the first day for circulating nomination papers for the general municipal election, designate one of the city council offices appearing on the general municipal ballot, other than the office of the mayor, to serve a two-year term, or may provide that of the city council offices appearing on the general municipal ballot, other than the office of the mayor, the one which receives the least votes of those elected (or if there is a tie for such a position, as decided by lot) shall serve a two-year term. At all subsequent general municipal elections, each member of the city council elected at such election, other than the mayor if the mayor has a two-year term, shall be elected to serve a four-year term.

CHAPTER 733

An act to add Section 25615 to the Public Resources Code, relating to energy resources.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980]

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

SECTION 1. Section 25615 is added to the Public Resources Code, to read:

25615. (a) The Legislature hereby finds and declares that, during the last 50 years, inexpensive fossil fuels and electricity have created significant technological changes in the production of agricultural products. Fossil fuels have been substituted for labor, animal power, wind energy and solar energy technology in food and feed production and in the processing of California's agricultural commodities. Although the availability of inexpensive energy has fostered an intensive system of agriculture with higher crop yields and excellent productivity, our reliance on cheap energy has made the producers of agricultural products vulnerable to supply interruptions and skyrocketing price escalations.

(b) The Legislature further finds that the agricultural industry and consumers are faced with a challenge to maintain and even enhance the productivity of California agriculture through the development of renewable energy resources.

(c) The Legislature further finds that enhanced energy efficiency and conservation and development of renewable resource energy technologies are needed to replace and conserve fossil fuels and electricity in the production and processing of agricultural products. To develop such potential, a state program for assisting the development of solar technology in agriculture is necessary.

(d) The program, managed by the Department of Food and Agriculture in cooperation with the commission, shall include, but not be limited to, the following:

(1) An assessment of potential solar energy projects in California agriculture.

(2) Cooperation with the University of California in its ongoing extension program to provide information to ranchers, farmers and food processors on the benefits of renewable resource technologies to agricultural processes and on the availability of financial incentives such as loans and tax credits. The department may contract with the university or other educational institutions or agricultural organizations for such information outreach services.

(3) Establishment of an energy conservation, renewable resource, and solar energy technologies assistance program in agriculture utilizing the resources and joint efforts of persons engaged in agriculture, food processors, cooperatives, and manufacturers and installers of solar and other energy conservation and renewable resource energy technologies, the university and colleges, and the government to demonstrate the effectiveness and economic viability of energy conservation and renewable resource energy technologies in agriculture. The assistance program shall include state financial incentives to encourage the rapid and widespread deployment of diverse energy conservation and renewable resource energy technologies in agriculture and food processing. State financial

incentives may include, but shall not be limited to, state loans, loan guarantees, and leases and participating agreements for individuals, businesses, and public agencies for the purpose of stimulating the development and use of energy conservation and renewable resource energy technologies in agriculture. Energy conservation, solar applications, and renewable resource energy technologies eligible to receive state financial assistance shall include, but not be limited to, the following:

(A) Solar energy for space and water heating and cooling and for process heat.

(B) Wind energy for pumping and electrical generation of less than 100 kilowatts installed capacity.

(C) Geothermal energy for direct heating and cooling applications.

(D) Installation of hydroelectric generators of less than 100 kilowatts installed capacity on existing water storage and conveyance facilities such as dams, pipelines, and canals associated with agricultural water use.

(E) Energy conservation technologies and associated equipment which have promising application and life cycle cost effectiveness in the agricultural sector. Such technologies shall include, but not be limited to:

(i) Technologies that reduce heating, cooling, and refrigeration energy use.

(ii) Technologies that conserve water if their application will reduce energy use in water pumping.

(iii) Installation of more efficient electric motors for pumping, refrigeration, and other agricultural uses.

(e) The Department of Food and Agriculture, in cooperation with the commission and the University of California, shall assist applicants in attempting to obtain all possible supplementary and complimentary assistance from other publicly or privately funded sources prior to authorizing any state assistance.

(f) The Department of Food and Agriculture shall establish a technical review committee for the purpose of evaluating applications for financial assistance under this chapter. The department shall make awards of state financial assistance according to the decisions of the technical review committee. The members of the technical review committee shall consist of the following:

(1) One representative of the Department of Food and Agriculture appointed by the Director of Food and Agriculture.

(2) One representative of the commission appointed by the chairman of the commission.

(3) One representative of an agricultural organization appointed by the Director of Food and Agriculture.

(4) One representative of the University of California appointed by the president of the university.

(5) One public member with background and experience in agriculture appointed by the Director of Food and Agriculture.

(g) The Department of Food and Agriculture, after consultation with the technical review committee, shall establish criteria for the approval of applications for state financial assistance under this chapter. Such criteria shall include, but not be limited to, the following:

(1) Criteria requiring projects approved for financial assistance to be cost effective and establishing a method of determination of cost effectiveness.

(2) Criteria providing reasonable assurance of an applicant's ability to repay loans financed or guaranteed.

(3) Criteria concerning the terms and conditions of loans. The interest rate on loans made pursuant to this chapter shall not be less than 6 percent per year.

(4) Criteria establishing a maximum percentage of state-provided financial assistance for any project. In no case shall state financial assistance provide more than 90 percent of the total project cost.

(5) Criteria which will ensure that numerous conservation and renewable resource technologies are included in the program, and that concentration on one or two technologies is avoided.

(6) Criteria for the approval of equipment financed under the program. Such criteria may include requirements for equipment and installation warranties.

(7) Requirements that cost effective energy conservation measures be implemented in conjunction with renewable resource technologies.

(h) The Renewable Resource Energy Agricultural Account is hereby created in the General Fund. All moneys in such account shall be available for allocation by the Department of Food and Agriculture for the purposes of this section without regard to fiscal year when appropriated therefor by the Legislature. All moneys repaid pursuant to the provisions of this chapter shall be deposited in such account and shall thereupon become available for allocation for the purposes of this section when appropriated therefor by the Legislature.

Funds expended in any calendar year by the department from the account for administering the provisions of this chapter shall not exceed 5 percent of the total amount of financial assistance provided to applicants in that year.

SEC. 2. There is hereby transferred from the Energy and Resources Fund in the State Treasury to the Renewable Resources Energy Agricultural Account the sum of two million dollars ($2,000,000) for the purposes of carrying out Section 1 of this act.

This section shall become operative only if Assembly Bill No. 2973 of the 1979–80 Regular Session of the Legislature is enacted and creates the Energy and Resources Fund.

CHAPTER 734

An act relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. (a) Notwithstanding any other provision of law to the contrary, the county committee on school district organization in a county of the first class as determined pursuant to Section 28022 of the Government Code, which is studying a proposal for unification within a union high school district, shall exclude any component elementary school district, with an average daily attendance of less than 365 but more than 345 during the 1979–80 fiscal year, from any proposal to unify any or all of the remainder of the high school district, upon request of such elementary school district to be excluded.

(b) Notwithstanding Section 35503 of the Education Code or any other provision of law, any elementary school district excluded in a proposal for unification within a union high school district pursuant to subdivision (a) shall not be merged into a new unified school district by operation of law because the boundaries of an elementary school district and a high school district become coterminous.

(c) Notwithstanding Article 14 (commencing with Section 35850) of Chapter 3 of Part 21 of the Education Code or any other provision of law, any elementary school district excluded in a proposal for unification pursuant to subdivision (a) shall not be included within a high school district. Secondary students in grades 9 to 12, inclusive, so excluded from an existing high school district following any reorganization shall become the responsibility of one of the newly reorganized unified school districts, as mutually agreed upon by the elementary school district excluded from unification and the county committee. Such agreement shall be reached prior to completion of the county committee's study of the proposed unification within the union high school district and shall become a part of the committee's final plan for unification. Beginning with the fiscal year in which the reorganization becomes effective, all units of average daily attendance generated from students in grades 9 to 12, inclusive, who have become the responsibility of one of the newly organized unified school districts pursuant to this subdivision shall be credited to that unified school district for purposes of the revenue limit calculations specified in Article 2 (commencing with Section 42237) of Chapter 7 of Part 24 of the Education Code. No such units of average daily attendance shall be included in the revenue limit of the elementary school district excluded in a proposal of unification pursuant to subdivision (a).

(d) The provisions of this section shall not be construed as precluding any elementary school district requesting exclusion from a unification proposal pursuant to subdivision (a) from electing to be included in unification plans in the future.

SEC. 2. Due to unique circumstances, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to apply at the earliest possible time to a reorganization proposal currently being considered, it is necessary that this act take effect immediately.

CHAPTER 735

An act to amend Section 13962 of, and to add Section 13962.5 to, the Government Code, relating to victims of crime.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 13962 of the Government Code is amended to read:

13962. (a) The staff of the board shall appoint a clerk to review all applications for assistance in order to insure that they are complete. If the application is not complete, it shall be returned to the victim with a brief statement of the additional information required. The victim, within 30 days of receipt thereof, may either supply the additional information or appeal such action to the board which shall review the application to determine whether or not it is complete.

(b) If the application is accepted, it shall be promptly verified by the staff of the State Board of Control. Verification may be obtained in cooperation with designated victim and witness programs, as defined in Section 13967, using guidelines established by the board. The board thereupon shall consider the application at a hearing at

a time and place of its choosing. The board shall notify all interested persons not less than five days prior to the date of the hearing.

(c) The victim shall cooperate with the staff of the State Board of Control in the verification of the information contained in the application. Failure so to cooperate shall be reported to the board, which, in its discretion, may reject the application on this ground alone.

SEC. 1.5. Section 13962.5 is added to the Government Code, to read:

13962.5. The board and its staff shall cooperate with the Office of Criminal Justice Planning and such local victim witness programs as designated in Section 13967, in conducting training sessions for local program personnel and shall cooperate in the development of standardized procedures to be used by the local programs in the state.

CHAPTER 736

An act to amend Section 39015 of, and to add Article 5 (commencing with Section 39390) to Chapter 3 of Part 23 of, the Education Code, relating to surplus school property.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 39015 of the Education Code is amended to read:

39015. Whenever a school district acquires or has acquired a site for school purposes, as determined by the State Allocation Board, and does not use the site within (1) five years of the date of acquisition for the kindergarten, if any, and any of grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or, (2) seven years of the date of acquisition for any of grades 7 to 12, inclusive, maintained by a high school district or a unified school district, or if a school district has a site at any grade level which has previously been used but has not been used for school purposes within the preceding five years, the school district shall be subject to nonuse payments, unless the State Allocation Board, from time to time, makes a determination that the school district will utilize the property for the purpose for which it was intended within a reasonable period of time, in a specific amount for each additional year in which the site is retained and not used by the district beyond the foregoing specified periods, except the first such additional year shall be deemed to end not earlier than April 30, 1973.

The payments required shall be computed by the executive officer of the State Allocation Board and certified to the State Controller,

and payments shall be equal to one one-hundredth (1/100) of the original purchase price of the site modified by either a factor reflecting the change in assessed value of all lands in the state from the date of purchase of the site to the current date or such other factor which in the determination of the State Allocation Board is applicable to the site under consideration.

Whenever the State Allocation Board has determined that a school district in good faith has, within the preceding year, advertised the school site for sale to the highest bidder pursuant to the provisions of Article 4 (commencing with Section 39360) of Chapter 3 of Part 24 and has received no bids which in the judgment of the State Allocation Board reflect the fair market value of the property, the executive officer of the State Allocation Board shall not compute any nonuse payments for such site for a period of one year beyond such a determination.

Nonuse payments shall not be required for any year with respect to a school site which for one-half or more of the number of days of such year has been utilized by the school district, or by any other governmental entity pursuant to agreement with the school district, for school or community playground, playing field, or other outdoor recreational purposes.

SEC. 2. Article 5 (commencing with Section 39390) is added to Chapter 3 of Part 23 of the Education Code, to read:

Article 5. Surplus School Playground, Playing Field, and Recreational Property

39390. The Legislature is concerned that school playgrounds, playing fields and recreational real property will be lost for such uses by the surrounding communities even where those communities in their planning process have assumed that such properties would be permanently available for recreational purposes. It is the intent of the Legislature in enacting this article to allow school districts to recover their investment in such surplus property while making it possible for other agencies of government to acquire the property and keep it available for playground, playing field or other outdoor recreational and open-space purposes.

39391. This article shall apply to any school site owned by a school district, which the governing board determines to sell or lease, and with respect to which the following conditions exist:

(a) Either the whole or a portion of the school site consists of land which is used for school playground, playing field, or other outdoor recreational and open-space purposes.

(b) The land described in subdivision (a) has been used for one or more of the purposes specified therein for at least eight years immediately preceding the date of the governing board's determination to sell or lease the school site.

(c) No other available publicly owned land in the vicinity of the school site is adequate to meet the existing and foreseeable needs of

the community for playground, playing field, or other outdoor recreational and open-space purposes, as determined by the governing body of the public agency which proposes to purchase or lease land from the school district, pursuant to Section 39397.

39392. As used in this article, "school site" means a parcel of land, or two or more contiguous parcels, which is owned by a school district. "Governing board" means the governing board of the school district which owns the school site.

39393. The governing board of any school district may sell or lease any school site containing land described in Section 39391, and, if the governing board decides to sell or lease such land, it shall do so in accordance with the provisions of this article.

39394. Notwithstanding Section 54222 of the Government Code, the governing board, prior to selling or leasing any school site containing land described in Section 39391, excluding that portion of a school site retained by the governing board pursuant to Section 39395, shall first offer to sell or lease that portion of the school site consisting of land described in Section 39391, excluding that portion retained by the governing board pursuant to Section 39395, to the following public agencies in accordance with the following priorities:

(a) First, to any city within which the land may be situated.

(b) Second, to any park or recreation district within which the land may be situated.

(c) Third, to any regional park authority having jurisdiction within the area in which the land is situated.

(d) Fourth, to any county within which the land may be situated.

The governing board shall have discretion to determine whether the offer shall be an offer to sell or an offer to lease.

An entity which proposes to purchase or lease a school site offered by a school district shall notify the district of its intention, in writing, within 60 days after receiving written notification from the district of its offer to sell or lease.

39395. In determining what portion of a school site shall be offered for sale or lease pursuant to this article, the governing board may retain any part of the school site containing structures or buildings, together with such land adjacent thereto which, as determined by the governing board, must be included in order to avoid unreasonably reducing the market value of that part of the school site containing such structures or buildings.

39396. (a) Except as otherwise provided in subdivision (b), the price at which land described in Section 39391, excluding that portion of a school site retained by the governing board pursuant to Section 39395, is sold pursuant to this article shall not exceed the school district's cost of acquisition, calculated as a pro rata cost of acquiring the entire parcel comprising the school site, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any improvement to the recreational and open-space portion of the land which the school district has

made since its acquisition of the land. In no event shall such price be less than 25 percent of the fair market value of the land described in Section 39391 or less than the amount necessary to retire the share of local bonded indebtedness plus the amount of the original cost of the approved state aid applications on such property, excluding that portion of a school site retained by the governing board pursuant to Section 39394, at the time of the offer.

These provisions shall apply to land that the school district acquired by gift or for consideration.

(b) A school district that offers a portion of a school site for sale may offer such portion of property for sale at its fair market value, provided the school district offers an equivalent size alternative portion of such school site for school playground, playing field, or other recreational and open-space purposes.

(c) Land which is leased pursuant to this article shall be leased at an annual rate of not more than 1/20th of the maximum sales price determined pursuant to subdivision (a) of this section, adjusted annually by a factor equivalent to the percentage increase or decrease in the cost of living for the immediately preceding year.

(d) The percentage of annual increase or decrease in the cost of living shall be the amount shown for January 1st of the appropriate year by the then current Bureau of Labor Statistics Consumers Price Index for the area in which the school site is located.

39397. The governing body of a public agency which proposes to purchase or lease land from a school district pursuant to this article shall first make a finding, approved by a vote of two-thirds of its members, that public lands in the vicinity of the school site are inadequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes.

39398. Any land purchased or leased by a public agency pursuant to this article shall thereafter be maintained by such agency for playground, playing field, or other outdoor recreational and open-space uses. Land which prior to its sale or lease was used for playground or playing field purposes, shall continue to be maintained for such use by the acquiring agency, unless the governing body of that agency, by a two-thirds vote at a public hearing, determines that there is no longer a significant need for the land to be so used, in which case the land may thereafter be used for other outdoor recreational or open-space purposes. The school district shall, at any time, have the right to reacquire the land at a price calculated in the manner prescribed in Section 39396, and the rights of reacquisition provided in this section shall be set forth in the deed or other instrument of transfer. If the governing board of the public agency determines that the land is no longer needed for playgound, playing field, or other outdoor recreational and open-space purposes, the public agency shall offer the property to the school district for reacquisition under this section, and the school district shall notify the public agency within 60 days of its intent to

reacquire such land. If the school district intends to sell such property within one year of the reacquisition date, the school district shall have the right to finance the reacquisition of such land by lien against the proceeds to be obtained from the sale of such land by the school district. If the school district fails to give the public agency timely notice of its intent to reacquire the property, or if it fails to exercise its right of reacquisition, the public agency shall have the unrestricted right to use or dispose of such property.

For purposes of this section, "cost of acquisition", as used in Section 39396, shall refer to the cost at which the land was acquired by the public agency.

39399. The sale or lease of land by a school district pursuant to this article shall be subject to, and governed by, the provisions of Article 2 (commencing with Section 39030) of Chapter 1 and Article 4 (commencing with Section 39360), except to the extent that the provisions of this article are inconsistent with a provision or provisions of Article 2 or 4, in which event the provisions of this article shall govern such sale or lease.

39400. Failure by the school district to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

39401. Notwithstanding the other provisions of this article, any school district governing board may designate not more than two surplus school sites as exempt from the provisions of this article for each planned school site acquisition if the school district has an immediate need for an additional school site and is actively seeking to acquire such an additional site, and may exempt not more than one surplus school site if the district is seeking immediate expansion of the classroom capacity of an existing school by 50 percent or more.

The exemption provided for by this section shall be inapplicable to any school site which, under an existing lease having a term of 10 years, executed on or before July 1, 1974, was leased to a city of under 100,000 population for park purposes, was improved at city expense, and is presently used by the city for public park purposes.

39402. A school district having a school site described in Section 39391 may, as an alternative to sale or lease of the land pursuant to the foregoing provisions of this article, enter into other forms of agreement concerning the disposition of such property with any entity enumerated in Section 39394, in accordance with the priorities therein specified, including, but not limited to: an agreement to lease to such entity all or part of the school site for a specified term, with an option to purchase such properties at the end of the term; an agreement granting to such entity a permanent open-space easement for recreational use over a portion of the leased site; and, if the lessee or a grantee under such an agreement is an entity having zoning powers, an agreement requiring such entity to rezone any portion of the property retained by the school district in accordance with conditions specified in the agreement, to the extent that rezoning in accordance with such conditions is in compliance with

applicable laws of the state.

39403. The right of public agencies to acquire surplus school property pursuant to this article shall exist only until 30 percent of the total surplus school acreage owned by a school district has been purchased or leased by public agencies in accordance with this article. Any remaining surplus school property shall not be subject to the provisions of this article. However, this limitation is not applicable to a school district having only one surplus school site, the recreational portion of which is sought to be acquired or leased by a single entity.

For purposes of this section, "surplus school acreage" of a school district is the sum of school site acreage which was surplus on January 1, 1980, and any school site acreage which became surplus after that date, less any surplus school property which was put back into active school use after January 1, 1980.

39404. This article shall not apply to any school district having more than 400,000 pupils in average daily attendance.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 737

An act to add Section 1235 to the Government Code, relating to salaries of public officers.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 1235 is added to the Government Code, to read:

1235. The salary of any elected public office shall not be reduced during an election year after any candidate for that particular office has filed the requisite forms declaring his or her candidacy for that particular office.

CHAPTER 738

An act to amend Section 12104 of, and to add Section 12104.5 to, the Business and Professions Code, relating to weights and measures.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 12104 of the Business and Professions Code is amended to read:

12104. (a) The department shall issue instructions and make recommendations to the county sealers and such instructions and recommendations shall govern the procedure to be followed by such officers in the discharge of their duties.

(b) Instructions and recommendations which are made to insure statewide weights and measures protection shall include a local administration cost analysis utilizing data provided by the county sealer. The cost analysis shall identify the joint programs or activities for which funds necessary to maintain adequate county administration and enforcement have not been provided. The director shall develop, jointly with the county sealers, county priorities for such enforcement programs and activities of the director.

The director shall annually report to the Legislature his findings concerning the cost analysis with specific regard to programs where funds are inadequate for an efficient enforcement program, together with a listing of the priorities jointly established by the director and the county sealers that are contained in the formal instructions and recommendations.

SEC. 2. Section 12104.5 is added to the Business and Professions Code, to read:

12104.5. The director may allocate annually to each county an amount determined by the director not to exceed one-third of the amount expended by the county pursuant to this division during the previous fiscal year for weights and measures programs. The allocation shall be made from funds appropriated to the director for the administration and enforcement of this division at the local level.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 739

An act to add Section 25309.2 to the Public Resources Code, relating to energy report.

[Became law without Governor's signature Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 25309.2 is added to the Public Resources Code, to read:

25309.2. Beginning with the biennial report transmitted by the commission in 1981, the Governor shall review each such report and shall, within 90 days after its receipt, report further to the Legislature his agreement or disagreement with the policy recommendations contained therein. The Governor's report to the Legislature shall cover at least the items required to be included in the commission's biennial report by Section 25309 and may cover such additional items as the Governor may deem necessary or appropriate. In the event that the Governor disagrees with one or more recommendations in the commission's biennial report, he shall, in each instance, indicate the reasons for such disagreement and shall specify the alternate policy which he deems appropriate.

The Governor's report to the Legislature pursuant to this section shall be deemed to be his official statement of energy policy.

SEC. 2. Notwithstanding Section 1 of this act, the Governor's review and report on the 1981 Biennial Report of the State Energy Resources Conservation and Development Commission required thereby shall not be due until March 31, 1981.

CHAPTER 740

An act to amend Section 301 of the Streets and Highways Code, relating to state highways.

[Became law without Governor's signature. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 301 of the Streets and Highways Code is amended to read:

301. Route 1 is from:

(a) Route 5 south of San Juan Capistrano to Route 101 near El Rio.

(b) Route 101 at Emma Wood State Park, 1.3 miles north of Route 33, to Route 101, 2.8 miles south of the Ventura-Santa Barbara County line at Mobile Pier Undercrossing.

(c) Route 101 near Las Cruces to Route 101 near Pismo Beach via the vicinity of Lompoc and Guadalupe.

(d) Route 101 near San Luis Obispo to Route 280 south of San Francisco along the coast via Cambria, San Simeon and Santa Cruz.

(e) Route 280 near the south boundary of the City and County of San Francisco to Route 480 in San Francisco.

(f) Route 101 near the southerly end of Marin Peninsula to Route 101 near Fernbridge via the coast route through Jenner, Westport, and Ferndale.

CHAPTER 741

An act to amend Sections 70059.8, 73674, 73674.1, 73676, 73677, 73678, 74844, 74845, 74847, 74848, 74851, 74954, 74954.5, 74955, 74963, 74965, 74969, 74970, and 74971 of the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 70059.8 of the Government Code is amended to read:

70059.8. (a) Notwithstanding any other provision of law, including but not limited to Sections 70040, 70041, 70042 and 70045, the following provisions shall be applicable to the official court reporters in Solano County.

(b) Regular official court reporters shall report all criminal and civil proceedings in their respective courts; all juvenile proceedings, other than those heard by referees or traffic officers when official reporters are unavailable; grand jury proceedings, coroner's inquests, and proceedings before the county board of equalization. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, public hearings and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(c) Each regular official court reporter shall be paid a salary according to the following schedule:

Range 783	*Step 1*	*Step 2*	*Step 3*	*Step 4*	*Step 5*
Biweekly.....	717.60	753.60	791.20	830.40	872.00

(d) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(e) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1982, unless ratified by statute by the Legislature prior to that date.

(f) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 of this chapter, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(g) Notwithstanding the provisions of Sections 70053 and 70054:

(1) In order to help defray the costs of reporting services, in addition to any fees otherwise required by law, a fee of sixteen dollars ($16) shall be paid to the county clerk by each party, or jointly by parties appearing jointly, in each of the following instances:

(A) Where Section 26821 requires such party or parties to pay the county clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court;

(B) Where Sections 26822 to 26825, inclusive, require such party or parties to pay the county clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court;

(C) Where Section 26826 requires the party or parties to pay the clerk a fee on the appearance in a civil action or special proceeding of a defendant, intervenor, respondent, correspondent, or adverse party, except in an appeal from an inferior court;

(D) Where Section 26827 requires such party or parties to pay the county clerk a fee for the filing of a petition or other paper in a probate, guardianship, conservatorship, or other proceeding specified in that section.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(4) All fees paid under this section shall be taxed as costs.

SEC. 2. Section 73674 of the Government Code is amended to read:

73674. The clerk may appoint (a) one chief deputy; (b) one deputy clerk V; (c) four deputy clerks IV; (d) one deputy clerk III; (e) four municipal courtroom clerks; (f) one account clerk III; (g) 21 deputy clerks II, or deputy clerk I or clerical trainees as may be determined by the judges with the concurrence of the board of supervisors; (h) one legal secretary. Each of these employees shall receive the salary specified in Section 73677 for this classification.

SEC. 3. Section 73674.1 of the Government Code is amended to read:

73674.1. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid a salary according to the following schedule:

Range 783	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly.....	717.60	753.60	791.20	830.40	872.00

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or

general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1982, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided in Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) Fees.

(1) In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars ($16) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(A) Upon the filing of a complaint or other first paper.

(B) Upon the filing of the answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff.

(C) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of Title 8.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(4) All fees paid under this section shall be taxed as costs.

SEC. 4. Section 73676 of the Government Code is amended to read:

73676. Wherever a reference to a salary range number is made in this article, the schedule found in the Personnel and Salary Resolution of the County of Solano shall apply. Any salary change resulting from an amendment of such schedule and listing shall remain effective only until January 1 of the second year following the calendar year in which such change is made.

Biweekly Salary Schedule

Salary Range	Step 1	Step 2	Step 3	Step 4	Step 5
379	303.20	318.40	334.40	351.20	368.80
398	318.40	334.40	351.20	368.80	387.20
414	331.20	348.00	365.60	384.00	403.20
440	352.00	369.60	388.00	407.20	427.20
483	386.40	405.60	425.60	447.20	469.60
488	390.40	409.60	430.40	452.00	474.40
534	427.20	448.80	471.20	494.40	519.20
544	435.20	456.80	480.00	504.00	529.60
563	450.40	472.80	496.80	521.60	548.00
566	452.80	475.20	499.20	524.00	550.40
576	460.80	484.00	508.00	533.60	560.00
606	484.80	508.80	534.40	560.80	588.80
669	535.20	561.60	589.60	619.20	650.40
720	576.00	604.80	635.20	667.20	700.80
759	607.20	637.60	669.60	703.20	738.40
772	617.60	648.80	681.60	716.00	752.00
866	692.80	727.20	763.20	801.60	841.60
1054	843.20	885.60	929.60	976.00	1024.80

SEC. 5. Section 73677 of the Government Code is amended to read:

73677. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set in the salary schedule followed in Section 73676.

Position	Range
(a) Clerical trainee	379
(b) Deputy clerk I	414
(c) Deputy clerk II	483
(d) Deputy clerk III	534
(e) Deputy clerk IV	606
(f) Deputy clerk V	669
(g) Chief deputy	772
(h) Legal secretary	544
(i) Account clerk III	566
(j) Municipal courtroom clerk	576
(k) Clerk of the municipal court	1054

Each person employed on the effective date of this section in the office of the clerk, including the clerk, shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the presiding judge of the court determines that the officer or employee is entitled to receive it. Officers and employees shall be appointed at the first step for the range assigned to their classification except if it is difficult to secure qualified personnel, or if a person of unusual qualifications

is appointed, the judge may appoint such person at the second step of the range assigned to that classification.

In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 73676, and, provided further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed one thousand twenty-five dollars ($1,025) biweekly.

SEC. 6. Section 73678 of the Government Code is amended to read:

73678. All increases in salary shall not be given as a matter of right but only when the presiding judge of the court determines that the officer or employee is properly entitled to receive it. Each person employed in the office of the clerk, including the clerk, shall have a merit increase eligibility date which shall be the first day of the pay period following completion of the number of full pay periods of service indicated on the following chart:

Number of Full Pay Periods of Service Completed Between Steps

	13	13	26	39
Salary range step number to which eligible	2	3	4	5

If an employee begins his employment on the first working day of a pay period, it shall be considered for purposes of this section that such employment began on the first calendar day of that pay period. The granting of any leave of absence without pay, other than military leave of absence, exceeding seven consecutive calendar days in a pay period shall cause the merit increase eligibility date to be extended to the first of the pay period following completion of the leave of absence without pay.

Notwithstanding the foregoing provisions of this section, an officer or employee who is promoted or reclassified to a position in a class with a higher salary range shall receive the recruiting salary for the higher class if it is greater than his salary prior to promotion or reclassification, or such higher amount as would constitute at least one-step increase (approximately 5 percent) on the salary range over the salary received prior to the promotion or reclassification, not to exceed the top step of the new salary range. The effective date of all promotions shall coincide with the first working day of a pay period. A new merit increase eligibility date shall be established, which shall be the first day of the pay period following completion of the number of full pay periods of service which corresponds with the required period of service as is governed by the next preceding

paragraph of this section.

SEC. 7. Section 74844 of the Government Code is amended to read:

74844. There shall be one marshal who shall receive one thousand forty-four dollars and eighty cents ($1,044.80) biweekly; provided, however, that in order to maintain comparability with the salaries of the elected and appointed officials of the County of Solano whose salaries are set by the board of supervisors, the judges, with the concurrence of the board of supervisors, may establish a salary not to exceed one thousand one hundred fifty dollars ($1,150) biweekly. Any such salary adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

SEC. 8. Section 74845 of the Government Code is amended to read:

74845. The marshal may appoint (a) one supervising marshal's clerk; (b) four deputy marshals II, or deputy marshal I as shall be determined by the judges with the concurrence of the board of supervisors; provided, however, that two additional deputy marshals may be appointed upon the determination of the judges with the concurrence of the board of supervisors; (c) one typist clerk II or I or clerical trainee; (d) one sergeant marshal; (e) one account clerk II or I or clerical trainee. Each of these employees shall receive the salary specified in Section 74847 for his or her classification.

SEC. 9. Section 74847 of the Government Code is amended to read:

74847. Persons employed in any of the positions authorized by this article except the marshal shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 74846:

Position	Range
(a) Clerical trainee	379
(b) Deputy clerk I	414
(c) Clerk II	440
(d) Account clerk I	440
(e) Deputy clerk II	483
(f) Account clerk II	488
(g) Legal secretary	544
(h) Deputy clerk III	534
(i) Supervising marshal's clerk	563
(j) Account clerk III	566
(k) Municipal courtroom clerk	576
(*l*) Deputy clerk IV	606
(m) Deputy clerk V	669
(n) Deputy marshal I	720
(o) Deputy marshal II	759
(p) Chief deputy clerk	772
(q) Sergeant marshal	866

(r) Clerk of the municipal court 1054
(s) Typist clerk I 398

Each person employed in the office of the clerk and the office of the marshal, including the clerk and the marshal, on the effective date of the amendments to this section enacted at the 1967 Regular Session of the Legislature shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the judges of the court determine that the officer or employee is entitled to receive it. The clerk, deputy clerks, and the attachés of the court shall be appointed at the first step for the range assigned to their classification, except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is hired, the judges may appoint such person at the second step of the range assigned to that classification. In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 74846, and, provided, further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed one thousand twenty-five dollars ($1,025) biweekly.

SEC. 10. Section 74848 of the Government Code is amended to read:

74848. All increases in salary shall not be given as matter of right but only when the judges of the court determine that the officer or employee is properly entitled to receive it. Each person employed in the office of the clerk and in the office of the marshal, including the clerk but not including the marshal, shall have a merit increase eligibility date which shall be the first day of the pay period following completion of the number of full pay periods of service indicated on the following chart:

Number of Full Pay Periods of Service Completed Between Steps

	13	13	26	39
Salary range step number to which eligible	2	3	4	5

If an employee begins his employment on the first working day of a pay period, it shall be considered for purposes of this section that such employment began on the first calendar day of that pay period. The granting of any leave of absence without pay, other than military leave of absence, exceeding seven consecutive calendar days in a pay period shall cause the merit increase eligibility date to be extended

to the first of the pay period following completion of the leave of absence without pay.

Notwithstanding the foregoing provisions of this section, an officer or employee who is promoted or reclassified to a position in a class with a higher salary range shall receive the recruiting salary for the higher class if it is greater than his salary prior to promotion or reclassification, or such higher amount as would constitute a one-step increase (approximately 5 percent) on the salary range over the salary received prior to the promotion or reclassification, not to exceed the top step on the new salary range. The effective date of all promotions shall coincide with the first working day of a pay period. Upon the promotion or reclassification, a new merit increase eligibility date shall be established, which shall be the first day of the pay period following completion of the number of full pay periods service which corresponds with the required period of service as is governed by the next preceding paragraph of this section.

SEC. 11. Section 74851 of the Government Code is amended to read:

74851. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed by law, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid a salary according to the following schedule:

Range 783	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly.....	717.60	753.60	791.20	830.40	872.00

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees

of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1982, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) Fees.

(1) In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars ($16) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(A) Upon the filing of a complaint or other first paper.

(B) Upon the filing of the answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff.

(C) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of this title.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth (6th) and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(4) All fees paid under this section shall be taxed as costs.

SEC. 12. Section 74954 of the Government Code is amended to read:

74954. (a) Whenever a reference is made to a numbered salary range according to the standard salary schedule in any section of this article, the schedule found in the Napa County Departmental Allocation List in effect on August 21, 1979, shall apply.

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates on the standard salary schedule for the County of Napa, effective on the date of this act, or adopts a new resolution which

provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court employees under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 13. Section 74954.5 of the Government Code is amended to read:

74954.5. (a) Whenever a reference is made to a numbered salary range according to the management and nonclassified personnel salary schedule in any section of this article, the schedule found in the Napa County Departmental Allocation List in effect on August 21, 1979, shall apply.

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates for the management and nonclassified personnel of the County of Napa, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court management and nonclassified personnel under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 14. Section 74955 of the Government Code is amended to read:

74955. There shall be one clerk who shall also be the court administrator, and who shall receive the monthly salary provided for salary range No. 77.7 in the salary schedule for management and nonclassified personnel. In addition to any other duties imposed by law, the clerk shall, at the direction of the presiding judge, perform the following duties:

(a) To direct and coordinate the nonjudicial activities of the court;

(b) To prepare and administer the budget of the court;

(c) To coordinate with other appropriate county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for the operation of the court;

(d) To collect, compare and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data;

(e) To serve as liaison for the court with other persons, committees, boards, groups and associations as directed by the presiding judge.

SEC. 15. Section 74963 of the Government Code is amended to read:

74963. There shall be one clerk of the court (subject to the provisions of Section 74968) who shall be appointed by the presiding judge of the municipal court and who shall hold office at the pleasure of the presiding judge. The clerk shall receive a monthly salary at a rate specified in range 17.12.

SEC. 16. Section 74965 of the Government Code is amended to read:

74965. The clerk (subject to the provisions of Section 74968) with the approval of the presiding judge may appoint:

(a) Three municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range 10.34.

(b) One municipal court clerk II, who shall receive a monthly salary at a rate specified in range 9.31.

(c) One general clerk III, who shall receive a monthly salary at a rate specified in range 8.10.

(d) Fifteen municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range 7.90, or 16 typist-clerks II, each of whom shall receive a monthly salary at a rate specified in range 7.37. The combined total of positions in the municipal court clerk I and typist-clerk II classifications shall not exceed fifteen (15) positions.

(e) One account clerk II, who shall receive a monthly salary at a rate specified in range 8.43, or one account clerk I, each of whom shall receive a monthly salary at a rate specified in range 7.67. The combined total of positions in the account clerk II and account clerk I classifications shall not exceed one (1) position.

(f) Two interpreter clerks who shall receive a monthly salary at a rate specified in range 7.52.

SEC. 17. Section 74969 of the Government Code is amended to read:

74969. Whenever reference to a numbered salary range is made in any section of this article, the schedule of monthly salaries found in the salary resolution of the County of Yolo in effect on January 1, 1980, shall apply.

SEC. 18. Section 74970 of the Government Code is amended to read:

74970. All employees of the Yolo County Municipal Court shall be entitled to the same provisions with respect to retirement, vacations, and other benefits allowed to employees of the county, and be subject to the personnel regulations, memoranda of understanding, management benefit package, and the affirmative action plan of the County of Yolo as they exist on January 1, 1980.

SEC. 19. Section 74971 of the Government Code is amended to read:

74971. The positions enumerated in Sections 74963 to 74966, inclusive, are deemed to be comparable in job and salary level to certain positions in the service of Yolo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Clerk classification	County classification
Clerk	Clerk of the municipal court/administrator
Municipal court clerk III	Municipal court clerk III

Municipal court clerk II	Municipal court clerk II
General clerk III	General clerk III
Municipal court clerk I	Municipal court clerk I
Typist-clerk II	Typist-clerk II
Typist-clerk I	Typist-clerk I
Account clerk II	Account clerk II
Account clerk I	Account clerk I
Interpreter clerk	Interpreter clerk

In the event that any classification, the number of positions prescribed for any classification, or the salary, benefits, personnel regulations, memoranda of understanding or affirmative action plan for any classification which is shown above is modified by the board of supervisors, a commensurate modification shall be made for the comparable court classification. Any adjustment made pursuant to this section shall be effective the same date as the effective date of the action applicable to the respective and comparable county classifications, but shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

SEC. 20. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act since, as provided for in Section 6(a) of Article XIII B of the California Constitution, this act is requested by the local agency affected. Moreover, there shall be no claim considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 742

An act to amend Section 91011 of the Government Code, relating to fair political practices.

[Became law without Governor's signature Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 91011 of the Government Code is amended to read:

91011. (a) No civil action alleging a violation in connection with a report or statement required by Chapter 4 (commencing with

Section 84100) of this title shall be filed more than four years after an audit could begin as set forth in subdivision (b) of Section 90002.

(b) No civil action alleging a violation of any provisions of this title, other than those described in subdivision (a), shall be filed more than four years after the date the violation occurred.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 743

An act to repeal Section 5901.1 of the Vehicle Code, relating to vehicles.

[Became law without Governor's signature Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 5901.1 of the Vehicle Code is repealed.

CHAPTER 744

An act to amend Sections 70047.1, 73793, 73794, 73796, 73797, 73798, 74783, 74784, 74785, and 74786 of the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 70047.1 of the Government Code is amended to read:

70047.1. In Stanislaus County, the duties of official reporters shall be performed as elsewhere provided by law. As full compensation for taking notes in criminal cases in the superior court each reporter shall receive a monthly salary of one thousand four hundred fifty-four dollars ($1,454), pro tempore reporters shall receive seventy-five dollars ($75) per diem, or any fractional part thereof, for reporting criminal matters, and the fee for reporting testimony and proceedings in civil contested cases is seventy-five dollars ($75) a day, or any fractional part thereof, and for the purposes of retirement, the compensation of each reporter shall be deemed to be the total of all per diem and transcription fees paid by the county to all of the reporters of the superior court for all phonographic

reporting services, divided by the number of superior court official reporters, plus his salary. All other fees of such reporters shall be as elsewhere provided by law. In cases where it is necessary to appoint a pro tempore reporter, he shall be allowed the fees elsewhere provided by law.

The salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Such changes in compensation made pursuant to this provision shall be on an interim basis and shall expire January 1 following adjournment of the next regular session of the Legislature unless ratified at such session.

SEC. 2. Section 73793 of the Government Code is amended to read:

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 49.5.

SEC. 3. Section 73794 of the Government Code is amended to read:

73794. There may be two traffic referees who shall be appointed by a majority of the judges of the court. A traffic referee shall receive a biweekly salary on range 46. The provisions of Section 72400 do not apply to the traffic referees appointed pursuant to this section.

A traffic referee of the court shall have the powers and duties specified for traffic referees in Sections 72401, 72402, and 72403.

SEC. 4. Section 73796 of the Government Code is amended to read:

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 49.5.

The office of marshal shall be filled initially by appointment by a majority of the judges of the court from among those persons who have served as constable of a justice court in Merced County during the year of 1976.

SEC. 5. Section 73797 of the Government Code is amended to read:

73797. (a) The marshal may appoint:

(1) One assistant marshal on range 46.

(2) Seven deputy marshals II on range 42.5.

(3) Two civil assistants on range 32.5.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals and receive the salary provided at the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

SEC. 6. Section 73798 of the Government Code is amended to read:

73798. The clerk-administrator may appoint:

(a) One supervising municipal court clerk II on range 41.

(b) Four supervising municipal court clerks I on range 37.5.

(c) Eight deputy court clerks II on range 34.5.

(d) Thirteen deputy court clerks I on range 32.5.

(e) One account technician I on range 37.

(f) Three account clerks I on range 32.5.

(g) Four typist-clerks II on range 31.5.

(h) One pretrial release clerk on range 40.

SEC. 7. Section 74783 of the Government Code is amended to read:

74783. There shall be one clerk-administrator who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk shall be on salary range 57D. The clerk may appoint, with the approval of the judges of the court:

(a) One assistant clerk-administrator on range 51B.

(b) Eight municipal court clerks on range 45C.

(c) One legal clerk on range 43A.

(d) Four account clerks III on range 42A.

(e) One clerk III on range 41A.

(f) Five account clerks II on range 39A.

(g) Twenty-six typist-clerks II on range 38A.

SEC. 8. Section 74784 of the Government Code is amended to read:

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court, and who shall be on range 54C. The marshal may appoint, with the approval of the judges of the court:

(a) One sergeant deputy marshal on range 51B.

(b) Eleven deputy marshals on range 48B.

(c) One account clerk III on range 42A.

(d) One account clerk II on range 39A.

(e) Three typist-clerks II on range 38A.

(f) Two deputy marshals who shall be custodians at the fee allowed by law for keeping property.

SEC. 9. Section 74785 of the Government Code is amended to read:

74785. Official reporters in the municipal court appointed pursuant to Section 72194 shall be attachés of the court, and in lieu of any other compensation provided by law for their services in reporting testimony in criminal proceedings in the court shall receive a monthly salary equivalent to range 55C.

SEC. 10. Section 74786 of the Government Code is amended to read:

74786. In addition to the compensation provided by this article, the employees, attachés, and other personnel of the court shall receive no more than the same holidays, vacations, sick leaves, and retirement benefits as the employees of the County of Stanislaus pursuant to the Ordinance Code of the County of Stanislaus.

SEC. 11. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 745

An act to amend Sections 70136, 74692, and 74693 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 70136 of the Government Code is amended to read:

70136. (a) Notwithstanding any other provision of law, the monthly salary of each full-time official reporter of the Superior Court in Santa Cruz County shall be as follows:

Step 1:	$1,614
Step 2:	$1,685
Step 3:	$1,758
Step 4:	$1,834
Step 5:	$1,941

The initial hiring rate for each position shall be step 1. However, the judges of the superior court may appoint any such court reporter at a higher initial step if, in the opinion of the judges of the superior court, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step.

In addition to the compensation provided in this article, each full-time reporter of the superior court shall be entitled to, and shall receive the same vacation, sick leave, salary step advancements, and similar privileges and benefits as are now or may hereafter be provided for the employees of the county.

(b) Notwithstanding any other provision of the law, compensation for each official reporter pro tempore shall be sixty-five dollars ($65) a day for each day such reporter pro tempore is on duty under order of the court. Each reporter pro tempore shall receive from the county the necessary traveling and other expenses when necessarily called from other counties.

(c) Each full-time official reporter and each official reporter pro

tempore shall receive the salaries specified in subdivisions (a) and (b), respectively, unless the board of supervisors of Santa Cruz County by ordinance provides for compensation in excess of the specified amounts, in which event the amount set by ordinance shall apply.

SEC. 2. Section 74692 of the Government Code is amended to read:

74692. (a) There shall be one clerk of the municipal court in Santa Cruz County, who shall be known as court administrator-clerk of the municipal court, and who shall be appointed by and serve at the pleasure of a majority of the judges of the municipal court. The court administrator-clerk of the municipal court shall receive a salary at the rate specified in rate ND of the salary schedule. The position of court administrator-clerk of the municipal court shall not be deemed a civil service position.

(b) There shall be one assistant clerk of the municipal court who shall be appointed by the court administrator-clerk of the municipal court, with the approval of a majority of the judges of the municipal court.

SEC. 3. Section 74693 of the Government Code is amended to read:

74693. The court administrator-clerk of the municipal court may appoint:

(a) Two deputy court clerks, grade IV, who shall receive a salary at the rate specified in range 45 of the salary schedule.

(b) Thirteen deputy court clerks, grade III, who shall receive a salary at the rate specified in range 40 of the salary schedule.

(c) Twenty-three deputy court clerks, each of whom shall be either grade I or grade II. Grade II deputy clerks shall receive a salary at the rate specified in range 32 of the salary schedule. Grade I deputy clerks shall receive a salary at the rate specified in range 27 of the salary schedule.

(d) One deputy court clerk, grade I, who shall receive a salary at the rate specified in range 27 of the salary schedule.

(e) One typist-clerk, either grade I or grade II. A grade I typist-clerk shall receive a salary at the rate specified in range 24 of the salary schedule. A grade II typist-clerk shall receive a salary at the rate specified in range 27 of the salary schedule.

(f) Two account clerks, grade III, who shall receive a salary at the rate specified in range FH of the salary schedule.

(g) Two court interpreters, who shall receive a salary at the rate specified in range EA of the salary schedule.

(h) One deputy court clerk, grade I, who shall receive a salary at the rate specified in range 27 of the salary schedule.

(i) One assistant court administrator-clerk of the municipal court, who shall receive a salary at the rate specified in range RK of the salary schedule.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article

XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 746

An act to amend Sections 69894.1, 69894.4, 72608, 72640, 72645, 72646, 72702, 72702.5, 72703, 72704, 72704.5, 72709, 72710, 72712, 72717.5, 72750.5, 72751, 72751.1, 72751.5, 72752, 72753, and 72754 of the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 69894.1 of the Government Code is amended to read:

69894.1. In the County of Los Angeles a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:

Number	Title	Schedule
3	Accounting clerk	30E
3	Accounting technician	35J
3	Administrative assistant I	39H[2]
3	Administrative assistant II	49E
22	Administrative judicial secretary	41F
6	Administrative secretary	38F
1	Arbitration administrator	53A
1	Assistant criminal courts coordinator	53A
1	Assistant director, juror services	61D
1	Assistant juvenile courts coordinator	53A
1	Assistant supervising counselor, mental health	58J
1	Assistant supervising juvenile traffic hearing officer	60D
1	Assistant supervising probate attorney (N.W.)	77J
1	Assistant to the executive officer	64D
3	Calendar clerk	34H

2	Chief clerk	45F
1	Chief, personnel division	63E
9	Child custody investigator	52C
1	Civil courts coordinator	63E
20	Clerk I	22A
106	Clerk II	26C
40	Clerk III	31H
3	Clerk IV	39E
46	Counselor	49A
58	Court commissioner	FA
		$46,074.25
263	Court reporter	59J
1	Court reporter assignment clerk	38F
1	Court statistician	46J
1	Criminal courts coordinator	63E
1	Director, administrative services	67E
1	Director, family counseling services	68E
1	Director, juror services	68E
1	Director, management systems	68E
1	Duplicating and mail unit supervisor	36A
1	Executive assistant	58D
1	Executive officer/Jury commissioner	E52
1	Finance officer	58D
1	Graphic arts aid	34J
1	Head, child custody investigations	59H
1	Head, court reporter and interpreter services	61J
1	Head, management audits	64D
1	Head, office services	48K
1	Head, property services	51H
1	Head, recognizance services	61K
2	Intermediate supervising clerk	34F
13	Interpreter	35J
20	Judicial secretary	34E
8	Jury interviewer	39H
7	Jury manager	51C
1	Jury project coordinator	63E
1	Jury qualification supervisor	45F
1	Juvenile courts coordinator	63E
19	Law clerk	51C
5	Legal research assistant	38G
1	Light vehicle driver	28F
1	Offset duplicator operator	30A

1	Payroll records supervisor	40H
1	Principal counselor	56H
2	Principal family counselor	61B
20	Probate attorney (N.W.)	73G
9	Probate checker	37F
1	Probate commissioner	82E
2	Procurement assistant	37F
3	Program specialist	47F
5	Property custodian-auditor	33F
1	Psychiatric physician	FD
		$182
10	Referee (N.W.)	77J
1	Research attorney (N.W.)	67G
15	Secretary I	32F
8	Secretary II	36F
1	Secretary to executive officer	46E
1	Secretary to presiding judge	50E
1	Senior child custody investigator	53L
12	Senior counselor	52L
3	Senior counselor, own recognizance	54L
1	Senior departmental personnel technician	54E
17	Senior family counselor	59B
33	Senior judicial secretary	36F
25	Senior juvenile traffic hearing officer	56B
1	Senior offset duplicator operator	34A
1	Senior property custodian-auditor	39E
1	Senior referee	FA
		$46,074.25
1	Special assistant	61D
1	Staff coordinator	56F
2	Statistical clerk	27F
1	Supervising administrative assistant II	58D
1	Supervising clerk	31H
1	Supervising counselor, mental health	68E
1	Supervising juvenile traffic hearing officer	65E
2	Supervising law clerk	53C
1	Supply clerk	33A
1	Technical writer	47F
250	Volunteer, w/o compensation	

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the salary ordinance of the County of Los Angeles shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners and senior referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

Reduction of the schedule applicable to a class by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbents of such positions. The court is authorized to regulate by rule the status of employees so affected.

N.W.—Pursuant to the Los Angeles County Salary Ordinance, employees employed in this position shall be compensated on a six-step salary range, the sixth step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. The rate or rates established by this provision constitutes a base rate.

All personnel appointed pursuant to this article shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

SEC. 1.1. Section 69894.4 of the Government Code is amended to read:

69894.4. Notwithstanding the provisions of Section 69894.1, in the County of Los Angeles a majority of the judges of the superior court may appoint 263 court reporters, each of whom shall receive a salary equivalent to the schedule designation 59J in the salary ordinance of the county. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

Reduction of the schedule applicable to court reporters by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbent court reporters. The court is authorized to regulate by rule the status of employees so affected.

SEC. 1.2. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Articles 2 (commencing with Section 72640), 3 (commencing with Section 72700) and 4 (commencing with Section 72750) of this chapter are deemed to be equivalent in job and salary level to position classifications included in the salary adjustments and employee rights and benefits for related classes of compensation and employee rights and benefits between such officers and attachés of municipal courts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such ordinance adjusting the salary of a county employee classification listed in the table of positions set forth in this section, *the* salary of the equivalent court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such salary adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number.

Table of Positions

Court classification	County classification
Officer Series	
Inspector	Inspector
Marshal	
Assistant marshal	
Captain	Captain
Lieutenant	Lieutenant
Sergeant	Sergeant
Deputy marshal III	Deputy sheriff III
Deputy marshal IV	
Deputy marshal II	Deputy sheriff II
Deputy marshal I	Deputy sheriff I
Deputy marshal-matron	Corrections officer
Program Analysis Series	
Chief program analyst	Deputy county counsel III
Program analyst	Deputy county counsel II
Legal research assistant	Law clerk
Assistant program analyst	Assistant administrative analyst
Administrative—Branch Supervisor—Courtroom Series	
All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table, except those specified in Section 72704.5	Superior court clerk

Clerk, Los Angeles Judicial District	
Personnel officer	Personnel officer II
Special assistant Administrative services	Accountant III

Administrative Services Series

Head, administrative services, marshal	Administrative analyst
Senior staff assistant marshal	
Staff assistant, marshal	

Stenographic Series

Intermediate stenographic secretary	Intermediate stenographic secretary
Judicial secretary	
Administrative secretary presiding judge	
Administrative secretary clerk	
Administrative secretary marshal	
Stenographic secretary	
Senior stenographic secretary	
Stenographic secretary, municipal courts	
Senior stenographer municipal courts	
Stenographer, municipal courts	Legal stenographer

Clerical Series

Deputy clerk II	Intermediate typist-clerk
Deputy clerk I	
Deputy clerk III	
Administrative clerk	
Typist-clerk	
Deputy clerk-custody officer	
Senior payroll clerk, marshal	Payroll clerk II

Storekeeper Series

Supply and reproduction supervisor	Storekeeper III
Supply and reproduction assistant	

Salary adjustments made pursuant to this section shall be effective until January 1 of the second year following the calendar year in which such adjustments are made.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights and benefits including, but not limited to, paid medical plans, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County employee classification.

In addition to the salary adjustment otherwise provided by this section, all persons employed in the classification of Deputy Clerk IV shall receive a one time only four level salary increase effective July 1, 1979. The resulting salary rate shall constitute the base rate for subsequent salary adjustments. The term "level" herein refers to the subschedule increments of the Salary Schedule of Salary Ordinance No. 6222 of the County of Los Angeles.

SEC. 1.5. Section 72640 of the Government Code is amended to read:

72640. There shall be one marshal for all municipal courts established in judicial districts in Los Angeles County, who shall be appointed pursuant to this article, and who shall receive the monthly compensation specified in Schedule 85L.

SEC. 2. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint:

(a) One assistant marshal who shall receive the monthly compensation specified in Schedule 81L. The marshal shall make such appointment from the peace officer members of his office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. The provisions of Section 72649 shall not be applicable to the appointment to nor removal of a person from this position, but all other provisions of Section 72649 shall be applicable. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by him prior to his appointment to the position of assistant marshal.

(b) Three inspectors, each of whom shall receive monthly compensation as provided in Schedule 75L.

(c) Ten captains, each of whom shall receive monthly

compensation as provided in Schedule 69L.

(d) Twenty-two lieutenants, each of whom shall receive monthly compensation as provided in Schedule 64F.

(e) Thirty-six sergeants, each of whom shall receive monthly compensation as provided in Schedule 58B.

(f) Fifty deputy marshals IV, each of whom shall receive monthly compensation as provided in Schedule 51G.

(g) One hundred eighteen deputy marshals III, each of whom shall receive monthly compensation as provided in Schedule 49G.

(h) Two hundred seventy-six deputy marshals II, each of whom shall receive monthly compensation as provided in Schedule 47F, and who shall have completed one full year of service and possess a P.O.S.T. specialized basic certificate.

(i) Forty-five deputy marshals I, each of whom shall receive monthly compensation as provided in Schedule 45F. Appointments to such positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding the provisions of Section 72649, such deputies shall be subject to a 12-month period of probation.

(j) Ten deputy marshal-matrons, each of whom shall receive monthly compensation as provided in Schedule 40D, and who shall have completed a course of training which meets the requirements of the P.O.S.T. Commission for a specialized law enforcement basic certificate.

SEC. 3. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint:

(a) One head, administrative services, marshal, who shall receive compensation as provided in Schedule 60E.

(b) One senior staff assistant, marshal, who shall receive compensation as provided in Schedule 53E.

(c) One administrative secretary, marshal, who shall receive monthly compensation as provided in Schedule 42G. Appointment to said position shall be at step 3 of said schedule.

(d) Two staff assistants, marshal, each of whom shall receive compensation as provided in Schedule 43G.

(e) One senior stenographic secretary who shall receive monthly compensation as provided in Schedule 41F.

(f) Two principal clerks, each of whom shall receive monthly compensation as provided in Schedule 40E.

(g) One supply and reproduction supervisor who shall receive monthly compensation as provided in Schedule 39F.

(h) Two intermediate stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 36F.

(i) Ten administrative clerks, each of whom shall receive monthly compensation as provided in Schedule 36A.

(j) Twenty-three deputy clerk-custody officers, each of whom shall receive monthly compensation as provided in Schedule 35A.

(k) One senior payroll clerk, marshal, who shall receive monthly

compensation as provided in Schedule 35J.

(*l*) One supply and reproduction assistant who shall receive monthly compensation as provided in Schedule 33F.

(m) Fifty-two deputy clerks, grade III, each of whom shall receive monthly compensation as provided in Schedule 32B.

(n) Three stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 30F.

(o) Sixty deputy clerks, grade II, each of whom shall receive monthly compensation as provided in Schedule 26C.

(p) Fifteen deputy clerks, grade I, each of whom shall receive monthly compensation as provided in Schedule 20L. Appointments to such positions shall be at step 4 of such schedule.

(q) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property.

SEC. 4. Section 72702 of the Government Code is amended to read:

72702. There shall be one clerk or clerk-administrative officer who shall be appointed by the judges of the court and who shall receive a monthly salary at a rate specified in Schedule 78E of the salary schedule. Notwithstanding any other provisions of law, whenever any vacancy occurs, the judges shall appoint one clerk who shall hold office at their pleasure and who shall receive the salary hereinabove provided.

SEC. 5. Section 72702.5 of the Government Code is amended to read:

72702.5. The clerk may appoint one chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary at a rate specified in Schedule 68C of the salary schedule.

SEC. 6. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) One deputy clerk who shall be chief, traffic division, and who shall receive a monthly salary at a rate specified in Schedule 61C.

(b) One deputy clerk who shall be chief, civil division, and who shall receive a monthly salary at a rate specified in Schedule 61C.

(c) One deputy clerk who shall be chief, criminal division, and who shall receive a monthly salary at a rate specified in Schedule 61C.

(d) One deputy clerk who shall be chief, data-processing division, and who shall receive a monthly salary at a rate specified in Schedule 61C.

(e) One deputy clerk who shall be chief, valley division, and who shall receive a monthly salary at the same rate specified for chief, traffic, civil and criminal division.

(f) Seven deputy clerks, deputy chiefs, each of whom shall receive a monthly salary at a rate four schedules more than the rate specified for principal clerk.

(g) One deputy clerk who shall be chief, administrative services, and who shall receive a monthly salary at a rate specified in Schedule 61C.

(h) One deputy clerk who shall be special assistant to the executive officer, and who shall receive a monthly salary at the rate specified in Schedule 61C.

(i) One deputy clerk, who shall be criminal courts coordinator, and who shall receive a monthly salary at a rate specified in Schedule 48C.

(j) Seven deputy clerks, principal clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 52D.

(k) One deputy clerk who shall be special assistant to the chief, administrative services division, and who shall receive a monthly salary at a rate specified in Schedule 49K.

(*l*) One deputy clerk who shall be personnel officer and who shall receive a monthly salary at a rate specified in Schedule 60E.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule.

SEC. 7. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) Ninety-six deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 64 and each commissioner or traffic referee in excess of 18 to which the court is or may become entitled by law, each of whom shall receive a monthly salary at a rate specified in Schedule 48C.

(b) One deputy clerk, executive secretary, presiding judge, who shall receive a monthly salary at a rate specified in Schedule 46F. Appointments to said position shall be at step 3 of said schedule.

(c) One deputy clerk, administrative secretary, clerk, who shall receive a monthly salary at a rate specified in Schedule 42F. Appointments to said position shall be at step 3 of said schedule.

(d) Fifteen deputy clerks, judicial secretary, each of whom shall receive a monthly salary at a rate specified in Schedule 36F. Appointments to said positions shall be at step 3 of said schedule.

(e) Seventy-five deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(f) Five deputy clerks, supervising clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 37C.

(g) One hundred forty-five deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(h) One hundred fifty-five deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointments to such positions shall be at step 3 of the schedule.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule.

SEC. 8. Section 72704.5 of the Government Code is amended to

read:

72704.5. The clerk may also appoint the following deputy clerks as needed:

(a) One computer operations supervisor, who shall receive a monthly salary 10 schedules more than the schedule specified for supervising computer operators.

(b) One data conversion supervisor III, who shall receive a monthly salary at a rate specified in Schedule 44K.

(c) Three data conversion supervisors I, each of whom shall receive a monthly salary at a rate specified in Schedule 35D.

(d) Twelve senior data conversion equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(e) Seventy-five data conversion equipment operators I, each of whom shall receive a monthly salary at a rate specified in Schedule 28B.

(f) One EDP data systems analyst who shall receive a monthly salary at a rate specified in Schedule 52E.

(g) One EDP staff aide who shall receive a monthly salary at a rate specified in Schedule 35J.

(h) Six supervising computer operators, each of whom shall receive a monthly salary at a rate specified in Schedule 46E.

(i) Six computer systems operators, each of whom shall receive a monthly salary at a rate specified in Schedule 40D.

(j) Six computer equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 34H.

(k) One senior data control clerk, who shall receive a monthly salary at the rate specified in Schedule 30J.

(*l*) Two data control clerks, each of whom shall receive a monthly salary at the rate specified in Schedule 26J.

On the effective date of any amendment to the salary ordinance of Los Angeles County adjusting the salary of any position having the same classification as a court position listed in this section, the salary of such listed court position shall be adjusted an equivalent number of schedules in the salary schedule to which it is attached. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number. Such salary adjustments shall be on an interim basis and shall expire January 1 of the second calendar year following such adjustments, unless ratified by the Legislature.

Persons occupying positions listed in this section shall be entitled to all employee benefits that are provided for or made applicable to a Los Angeles County employee having an equal period of service.

SEC. 8.3. Section 72709 of the Government Code is amended to read:

72709. Each official reporter in the municipal court appointed pursuant to Section 72194 shall be an attaché of the court. In lieu of

any other compensation provided by law for his services in reporting testimony and proceedings in the court, each official reporter shall receive a monthly salary in the same sum as is paid official court reporters of the Superior Court of the County of Los Angeles; provided, that if the amount of such salary is fixed under a step plan of compensation based upon tenure of service, the provisions of Section 72705(c) shall apply in fixing the respective salary step placements for official court reporters of the municipal court and any period of appointment as official court reporters pro tempore of the court shall be included as service under this section. In no event shall the salary of an official municipal court reporter exceed the highest salary paid to an official court reporter of the Superior Court of Los Angeles County, and in no event shall any one adjustment in the rate of the salary exceed eight schedule numbers of the salary schedule. The salaries of official court reporters shall be paid from the reporters' salary fund.

The judges of the court may provide employee benefits to official court reporters which are comparable to those provided official reporters in the superior court pursuant to Section 69894.3. In addition, on and after January 1, 1980, the judges may make one adjustment to the sick leave benefits of official court reporters to a reasonable amount in proportion to the sick leave benefits that other county employees have received. Such benefits shall be charged to the reporter's salary fund.

SEC. 8.7. Section 72710 of the Government Code is amended to read:

72710. The judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary, but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in those sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases receive the same per diem fee paid official court reporters pro tempore of the Superior Court of Los Angeles County which upon the order of the court shall be paid from the reporters' salary fund. The judges of the court may provide benefits to official reporters pro tempore comparable to those afforded other county employees who are employed on a daily basis. Such benefits shall be charged to the reporter's salary fund.

SEC. 9. Section 72712 of the Government Code is amended to read:

72712. There shall be set aside from the revenue of the court a revolving fund in the amount of three hundred thousand dollars ($300,000). The fund shall be known as the reporters' salary fund.

At the time of each monthly distribution of the revenue of the court to the cities within the judicial district and to the county within which the court is established, the clerk of the court shall deduct proportionately from their respective total shares such sum as will, when added to the sum then remaining in the fund, equal three

hundred thousand dollars ($300,000) and deposit it in the fund. Such sum shall include the cost incurred pursuant to Section 72194.5 from electronic recording devices, appurtenant equipment, supplies, recordings and transcriptions produced from electronic recording of testimony and proceedings in the court.

Deductions from the county's share of the revenue shall be made from that portion of it distributable to the salary fund of the county, and deductions from each city's share shall be made from that portion of it distributable to the general fund of each city.

For the purposes of this section the "revenue" of the court includes all fines, forfeitures, and fees accruing to the cities or the county, except law library fees.

SEC. 10. Section 72717.5 of the Government Code is amended to read:

72717.5. The chief program analyst, municipal courts, may appoint:

(a) Five program analysts, municipal courts, each of whom shall receive a monthly salary at the same rate specified for the county's class of deputy county counsel II.

(b) The chief program analyst, municipal courts, may also appoint:

(1) One stenographic secretary, municipal courts, who shall receive a monthly salary of one thousand four hundred forty-six dollars and eighty-one cents ($1,446.81). Notwithstanding the above, appointments to such position subsequent to January 1, 1977, shall be at a rate specified in Schedule 36F.

(2) One senior stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 36F.

(3) One stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 32F, but in no event less than step 3.

(4) Ten legal research assistants, each of whom shall receive compensation at the rate of six dollars and fifty-nine cents ($6.59) per hour.

(c) The chief program analyst may designate one program analyst as assistant chief program analyst who shall, for the duration of the assignment, receive an increase in basic compensation of two salary schedules.

(d) The chief program analyst may appoint an assistant program analyst in lieu of a program analyst on a one for one substitute basis. The assistant program analyst shall receive a monthly salary at the same rate specified for the county class of assistant administrative analyst.

SEC. 11. Section 72750.5 of the Government Code is amended to read:

72750.5. In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the

judges of the court, who shall receive a monthly salary at a rate specified in Schedule 66C.

The clerk may appoint:

(a) Eleven deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointment to said positions shall be at step 3 of said schedule.

(b) Thirteen deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 48C.

(e) One deputy clerk, judicial secretary, who shall receive a monthly salary at a rate specified in Schedule 36F. Appointment to such position shall be at step 3 of such schedule.

(f) One chief clerk-administrative services, who shall receive a monthly salary at a rate specified in Schedule 53C.

(g) One jury secretary who shall receive a monthly salary at a rate specified in Schedule 53C.

(h) One chief clerk-civil, who shall receive a monthly salary at a rate specified in Schedule 53C.

(i) One chief clerk-criminal, who shall receive a monthly salary at a rate specified in Schedule 53C.

(j) One chief clerk-traffic, who shall receive a monthly salary at a rate specified in Schedule 53C.

(k) One occupant of chief clerk position as set forth in this section shall be designated by the clerk-administrative officer as assistant clerk-administrative officer and shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 12. Section 72751 of the Government Code is amended to read:

72751. In each municipal court district having six judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 64C.

The clerk may appoint:

(a) Ten deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointment to said positions shall be at step 3 of said schedule.

(b) Twelve deputy clerks grade II each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(d) Eight deputy clerks grade IV, plus one additional such deputy

clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 48C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 13. Section 72751.1 of the Government Code is amended to read:

72751.1. In each municipal court district having five judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 63C.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(d) Seven deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 48C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 14. Section 72751.5 of the Government Code is amended to read:

72751.5. In each municipal court district having four judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 63C.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(d) Six deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to

Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 48C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 15. Section 72752 of the Government Code is amended to read:

72752. In each municipal court district having three judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 62C.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(d) Five deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 48C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 16. Section 72753 of the Government Code is amended to read:

72753. In each municipal court district having two judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 62C.

The clerk may appoint:

(a) Six deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointments to said positions shall be at step 3 of said schedule.

(b) Eight deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(c) Six deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(d) Three deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in

Schedule 48C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 17. Section 72754 of the Government Code is amended to read:

72754. In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judge of the court, who shall receive a monthly salary at a rate specified in Schedule 60C.

The clerk may appoint:

(a) Two deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 22L. Appointments to said positions shall be at step 3 of said schedule.

(b) Three deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 26C.

(c) Two deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 32B.

(d) Two deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 48C; provided, however, that one of such deputy clerks grade IV whose regular duties shall include the supervision of clerical personnel shall, for the duration of such assignment, receive compensation at the rate of the next higher numbered salary schedule which will increase his basic compensation by one step.

SEC. 18. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 747

An act to amend Section 73113.5 of the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 73113.5 of the Government Code is amended to read:

73113.5. Whenever reference is made to a numbered salary range in any section of this chapter, the salary schedule found in the salary ordinance of San Bernardino County in effect on July 2, 1979, shall apply.

Administration of the salary plan provided by this chapter, including the hiring date; increases within range; salary on promotion, transfer, or demotion; salary on position reclassification, obligations and benefits and all other relevant matters, shall be in accordance with the current personnel rules and ordinances of the County of San Bernardino.

Notwithstanding any other provisions of law, the salary and classifications of municipal court employees provided by Sections 73107, 73110, 73113, 73114, 73122, and this section may be increased or decreased within the range limits of the salary schedule incorporated by reference by this section in order to provide classification and compensation that is comparable to county employees of similar qualifications and experience in the classified service of San Bernardino County as such comparability is determined by the board of supervisors. Any salary increases granted or reclassifications made pursuant to this paragraph shall be effective only until January 1, 1982.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 748

An act to amend Section 69899.5 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 69899.5 of the Government Code is amended to read:

69899.5. In the County of Orange, a majority of the judges of the superior court may appoint the following officers and employees

whose monthly salaries shall be:

Number of positions	Title	Salary range
1	Assistant superior court executive officer	E66
1	Administrative services assistant II—superior court	E60
1	Account clerk II	D32
1	Civil courts coordinator	E55
1	Master calendar assistant	D39
1	Jury services supervisor	A51
1	Court services supervisor	A38
1	Executive secretary to presiding judge	D45
1	Supervising judicial stenographer	A43
2	Secretary II—judicial	D41
7	Judicial stenographer	D37
1	Court information clerk	D30
5	Superior court commissioner	85% of salary of superior court judge
4	Legal research attorney	A63
1	Legal research assistant	A57
1	Probate court coordinator	A59
3	Probate examiner	A55
1	Probate secretary	D42
1	Jury payroll clerk	D32
3	Master calendar clerk	D34
1	Juvenile court administrator	E66
1	Systems and procedures analyst—departmental	A61
3	Probate investigator	A51
3	Stenographer clerk II	D33
1	Master calendar supervisor	A51

The references to a numbered salary range in this section are to the salary schedule in the salary resolution of the County of Orange.

All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion.

With the approval of the board of supervisors, the majority of the judges may establish such additional titles and pay rates as are required, and, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees, except those of court commissioners, may be adjusted by joint action and approval of the

board of supervisors and a majority of the judges of the court.

All personnel shall be entitled to such step advancement, vacation, sick leave, holiday benefits, other leaves of absence, and other benefits as may be directed by rules adopted by a majority of the judges. Where statutes require implementation by local ordinances for the extension of benefits to local officers and employees, these may be made applicable, by rule, to such personnel.

The benefits shall also include the same lump-sum payments for sick leave and vacation for such personnel when they are separated from the service as are made to county employees of such county.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of such personnel. When such rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall furnish to the judges such services as may be required in connection with the recruitment and employment of such personnel.

All such personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office outside of the county.

All such personnel shall be included in the retirement system of the County of Orange, subject to the provisions of such system.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act since, as provided for in Section 6(a) of Article XIII B of the California Constitution, this act is requested by the local agency affected. Moreover, there shall be no claim considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 749

An act to amend Sections 11055, 11100, and 11383 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl- 14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(i) Raw opium.

(ii) Opium extracts.

(iii) Opium fluid extracts.

(iv) Powdered opium.

(v) Granulated opium.

(vi) Tincture of opium.

(vii) Apomorphine.

(viii) Codeine.

(ix) Ethylmorphine.

(x) Hydrocodone.

(xi) Hydromorphone.

(xii) Metopon.

(xiii) Morphine.

(xiv) Oxycodone.

(xv) Oxymorphone.

(xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Alphaprodine.

(2) Anileridine.

(3) Bezitramide.

(4) Dihydrocodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphon.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone—intermediate, 4-cyano-2(N,N-dimethylamino)-4,4-diphenylbutane.
(13) Moramide—intermediate, 3-methyl-4-morpholino-2,2-diphenylbutanoic acid.
(14) Pethidine.
(15) Pethidine—intermediate—A, 4-cyano-N-methyl-4-phenylpiperidine.
(16) Pethidine—intermediate—B, ethyl 4-phenylpiperidine-4-carboxylate.
(17) Pethidine—intermediate—C, N-methyl-4-phenylpiperidine-4-carboxylic acid.
(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Phenmetrazine and its salts.
(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
(4) Any substance which contains any quantity of N-ethylamphetamine, including its salts, isomers, and salts of isomers.
(5) Methylphenidate.

(e) Any material, compound, mixture, or preparation which contains any quantity of phencyclidine having a potential for abuse associated with a depressant effect on the central nervous system.

SEC. 2. Section 11100 of the Health and Safety Code is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the State Department of Justice of all such transactions:

(1) Phenyl-2-propanone
(2) Methylamine
(3) Ethylamine
(4) D-lysergic acid

(5) Ergotamine tartrate
(6) Diethyl malonate
(7) Malonic acid
(8) Ethyl malonate
(9) Barbituric acid
(10) Piperidine
(11) N-acetylanthranilic acid.

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 4.5 (commencing with Section 11371) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes such substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes such substance to his patients.

(3) Any manufacturer or wholesaler licensed by the Board of Pharmacy who sells, transfers, or otherwise furnishes such substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in paragraphs (1) to (10), inclusive, of subdivision (a) to a person in this state shall, within 72 hours thereafter, submit a report of such transaction to the Department of Justice. However, the Department of Justice may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that; (1) a pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance, and (2) the recipient has established a record of utilization of such substance for lawful purposes.

(e) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in paragraph (11) of subdivision (a) to a person in this state shall, not less then 21 days prior to delivery of such substance, submit a report of such transaction to the Department of Justice. However, the Department of Justice may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that (1) a pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer, or other person who sells,

transfers, or otherwise furnishes such substance and the recipient of the substance, and (2) the recipient has established a record of utilization of such substance for lawful purposes.

SEC. 3. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture N-ethylamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison.

(b) Any person who possesses both piperidine and cyclohexanone at the same time, or a combination product thereof, with intent to manufacture phencyclidine (PCP) is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years.

(c) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, piperidine, or cyclohexanone shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine or cyclohexanone shall be deemed to be possession of such substance

(d) The provisions of subdivisions (a), (b), and (c) shall not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess such substances or combinations of substances.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

N-ethylamphetamine is being used as a substitute for the stimulant methamphetamine, which is a controlled substance. In order to clarify the status of ethamphetamine as a controlled substance, prevent dangerous abuse thereof, and control its manufacture without delay, it is necessary that this act go into effect as an urgency statute.

CHAPTER 750

An act to amend Sections 41301, 48053, 76006, 84721, and 84722 of, to add Section 42239.1 to, to add Article 8 (commencing with Section 8150) to Chapter 1 of Part 6 of, and to repeal Sections 52611 and 78461 of, the Education Code, relating to school finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Article 8 (commencing with Section 8150) is added to Chapter 1 of Part 6 of the Education Code, to read:

Article 8. Apprenticeship Education

8150. Attendance of apprentices enrolled in any class maintained by a high school, unified school district, regional occupation center or program, community college, or adult school, pursuant to Section 3074 of the Labor Code, shall be reported separately to the Superintendent of Public Instruction or Chancellor of the California Community Colleges, as appropriate. Attendance reported pursuant to this section shall be used only for purposes of calculating allowances pursuant to this article.

8151. An apprentice attending a high school, unified school district, regional occupational center or program, community college, or adult school in classes of related and supplemental instruction as provided under Section 3074 of the Labor Code and in accordance with the requirements of subdivision (d) of Section 3078 of the Labor Code shall be exempt from the requirements of any interdistrict attendance agreement for such classes.

8152. Each clock hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of three dollars and twenty-five cents ($3.25) per hour.

8153. The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall allow three dollars and twenty-five cents ($3.25) for each hour of teaching time devoted to each indentured apprentice in classes of related and supplemental instruction provided by high schools, unified school districts, regional occupation centers or programs, community colleges, or adult schools.

SEC. 2. Section 41301 of the Education Code is amended to read:

41301. The amount transferred to Section A of the State School Fund pursuant to Section 14002 and Section 14004 shall be expended

in accordance with the following schedule:

(a) Twenty-one dollars and fifty cents ($21.50) multiplied by the total average daily attendance credited during the preceding school year to elementary school districts which during the preceding school year had less than 901 units of average daily attendance, to high school districts which during the preceding school year had less than 301 units of average daily attendance, and to unified districts which during the preceding school year had less than 1,501 units of average daily attendance, but not to exceed an amount equal to eighty-five cents ($0.85) multiplied by the average daily attendance credited during the preceding fiscal year to all elementary, high, and unified school districts and to all county superintendents of schools in the state, for allowance to county school service funds pursuant to subdivision (a) of Section 14054.

Commencing with the 1980–81 fiscal year, the amounts in this subdivision shall be increased annually by the same percentage prescribed by Section 14002.5.

(b) Fourteen dollars and thirty-five cents ($14.35) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, during the preceding school year for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of this part.

(c) Thirty-eight dollars and thirty cents ($38.30) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, during the preceding school year, for the purposes of Article 3 (commencing with Section 56030) of Chapter 1, Chapter 3 (commencing with Section 56500), Chapter 5 (commencing with Section 56700) of Part 30 of Division 4 of this title, and Sections 41863, 41866, 41892, and 41897.

(d) Four dollars and fifty cents ($4.50) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state during the preceding school year for allowances to county school service funds pursuant to subdivision (b) of Section 14054.

Commencing with the 1980–81 fiscal year, the amount in this subdivision shall be increased by the same percentage allowed in Section 14002.5.

(e) Three dollars and sixty-nine cents ($3.69) multiplied by the average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state for allowances to school districts for the purposes of Section 52205. The amount in this subdivision shall be annually increased by the percentage specified in subdivision (e) of Section 14002. In the 1980–81 fiscal year, up to two hundred twenty-five thousand dollars ($225,000) may be used for evaluation of programs pursuant to Section 52213.

(f) One thousand three hundred sixty-four dollars and seventy-one cents ($1,364.71) multiplied by the average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state during the preceding school year for basic aid, equalization aid, allowances for adults, and allowances to the county school tuition funds to be apportioned on account of average daily attendance. The amount expended pursuant to this subdivision shall be annually revised to reflect the adjustment prescribed by subdivision (e) of Section 14002.

(g) Twenty dollars and seventy cents ($20.70) multiplied by the average daily attendance during the preceding school year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state for purposes of Chapter 4 (commencing with Section 56600) of Part 30 of Division 4 of this title.

(h) Ninety cents ($0.90) multiplied by the average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state for purposes of Article 8 (commencing with Section 8150) of Chapter 1 of Part 6.

SEC. 3. Section 42239.1 is added to the Education Code, to read:

42239.1. Any gain or loss of average daily attendance used in the revenue limit calculation in Section 42238 which is due to reclassifying regular attendance to apprentice attendance pursuant to Section 8150 shall not be used in determining the amount allowed in Section 42239.

SEC. 4. Section 48053 of the Education Code is amended to read:

48053. Notwithstanding any other provisions of this code, and except as provided in Section 3074.7 of the Labor Code, no charges or fees of any kind shall be required to be paid by any apprentice, or by his parents or guardian, for admission or attendance in any class in any school district which provides instruction under Section 3074 of the Labor Code in accord with the requirements of subdivision (d) of Section 3078 of that code.

SEC. 5. Section 52611 of the Education Code is repealed.

SEC. 5.5. Section 76006 of the Education Code is amended to read:

76006. Notwithstanding any other provisions of this code, and except as provided in Section 3074.7 of the Labor Code, no charges or fees of any kind shall be required to be paid by an apprentice, or by his parents or guardian, for admission or attendance in any class in any school district which provides instruction under Section 3074 of the Labor Code in accord with the requirements of subdivision (d) of Section 3078 of that code.

SEC. 6. Section 78461 of the Education Code is repealed.

SEC. 7. Section 84721 of the Education Code is amended to read:

84721. The base 1980–81 fiscal year revenues for each community college district shall be the sum of those revenues received pursuant to Sections 84701 to 84704, inclusive, or Section 84706, whichever is

applicable, minus those revenues received in the 1979–80 fiscal year for apprenticeship average daily attendance in classes of supplemental and related instruction pursuant to Section 3074 of the Labor Code.

SEC. 8. Section 84722 of the Education Code is amended to read:

84722. The base 1980–81 fiscal year revenues for each community college district shall be adjusted for changes in average daily attendance based on incremental costs according to the following procedure:

(a) The chancellor shall determine the increase or decrease in the number of units of average daily attendance reported by each district between fiscal years 1979–80 and 1980–81, excluding any increase or decrease in attendance due to apprentice attendance pursuant to Section 3074 of the Labor Code.

(b) The chancellor shall multiply the increase or decrease in such units of average daily attendance by the incremental cost rate. For districts reporting 3,000 or more units of average daily attendance for fiscal year 1980–81, and which have decreased in average daily attendance since 1979–80, the incremental cost rate is defined as two-thirds of the district's revenues per unit of average daily attendance for 1979–80. For districts reporting fewer than 3,000 units of average daily attendance for fiscal year 1980–81, and for districts which have increased in average daily attendance since 1979–80, the incremental cost rate is defined as two-thirds of the statewide revenues per unit of average daily attendance for 1979–80.

(c) For districts which have increased in the number of units of average daily attendance reported between fiscal years 1979–80 and 1980–81, the chancellor shall add the amount computed pursuant to subdivision (b) to the amount computed pursuant to Section 84721. For districts which have decreased in the number of units of average daily attendance reported between fiscal years 1979–80 and 1980–81, the chancellor shall subtract the result computed pursuant to subdivision (b) from the amount computed pursuant to Section 84721.

(d) For purposes of this section, average daily attendance reported for fiscal year 1980–81 shall not include the attendance of students attending outside their district of residence in violation of a notice of restriction or in violation of an applicable interdistrict attendance agreement. The attendance of such students shall be separately reported in a manner determined by the chancellor; and the state apportionment for such students shall be one hundred twenty-five dollars ($125) per unit of average daily attendance.

SEC. 9. Of the amounts appropriated in Section 84728 of the Education Code or of the amounts appropriated in the Budget Act of 1980 which are in lieu of the amounts which would otherwise be appropriated by Section 84728 of the Education Code, if appropriate, up to nine million nine hundred forty-seven thousand dollars ($9,947,000) shall be available as necessary upon certification by the Chancellor of the California Community Colleges for the purpose of

funding community college related and supplemental instruction pursuant to Section 3074 of the Labor Code, as provided in Section 8153 of the Education Code.

SEC. 9.5. Of the amounts appropriated by subdivision (a) of Item 352 of the Budget Act of 1980, up to four million sixty-three thousand dollars ($4,063,000) shall be available as necessary, upon certification of the Superintendent of Public Instruction for the purpose of funding school district related and supplemental instruction pursuant to Section 3074 of the Labor Code, as provided in Section 8153 of the Education Code.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to provide for the orderly functioning of school districts and their fiscal management for the 1980–81 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 751

An act to amend Sections 225, 226, and 233 of, and to repeal Section 240 of, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 225 of the Welfare and Institutions Code is amended to read:

225. In each county there shall be a juvenile justice commission consisting of not less than 7 and no more than 15 citizens. Two or more of the members shall be persons who are between 14 and 21 years of age, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. Each person serving as a member of a probation committee immediately prior to September 15, 1961, shall be a member of the juvenile justice commission and shall continue to serve as such until such time as his or her term of appointment as a member of the probation committee would have expired under any prior provision of law. Upon a vacancy

occurring in the membership of the commission and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court for a term of four years. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his or her predecessor.

Appointments may be made by the presiding judge of the superior court, in the same manner designated in this section for the filling of vacancies, to increase the membership of a commission to the maximum of 15 in any county which has a commission with a membership of less than 15 members.

In any county in which the membership of the commission, on the effective date of amendments to this section enacted at the 1971 Regular Session of the Legislature, exceeds the maximum number permitted by this section, no additional appointments shall be made until the number of commissioners is less than the maximum number permitted by this section. In any case, such county's commission membership shall, on or after January 1, 1974, be no greater than the maximum permitted by this section.

SEC. 2. Section 226 of the Welfare and Institutions Code is amended to read:

226. In lieu of county juvenile justice commissions, the boards of supervisors of two or more adjacent counties may agree to establish a regional juvenile justice commission consisting of not less than eight citizens, and having a sufficient number of members so that their appointment may be equally apportioned between the participating counties. Two or more of the members shall be persons who are between 14 and 21 years of age, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. The presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of each of the participating counties shall appoint an equal number of members to the regional justice commission and they shall hold office for a term of four years. Of those first appointed, however, if the number appointed be an even number, half shall serve for a term of two years and half shall serve for a term of four years and if the number of members first appointed be an odd number, the greater number nearest half shall serve for a term of two years and the remainder shall serve for a term of four years. The respective terms of the members first appointed shall be determined by lot as soon as possible after their appointment. Upon a vacancy occurring in the membership of the commission and upon the expiration of the term of office of any member, a successor shall be appointed by the

presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of the county which originally appointed such vacating or retiring member. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee shall hold office for the unexpired term of his or her predecessor.

SEC. 3. Section 233 of the Welfare and Institutions Code is amended to read:

233. The board of supervisors may by ordinance provide for the establishment, support, and maintenance of a delinquency prevention commission, composed of not fewer than seven citizens, to coordinate on a countywide basis the work of those governmental and nongovernmental organizations engaged in activities designed to prevent juvenile delinquency. If the board so elects, it may designate the juvenile justice commission, or any other committee or council appointed pursuant to Section 232 or 235, to serve in such capacity.

The commission may receive funds from governmental and nongovernmental sources to hire an executive secretary and necessary staff and to defray needed administrative expenses. The board of supervisors may direct any county department to provide necessary staff service to the commission. The commission may expend its funds on specific projects designed to accomplish its objectives.

Members of the delinquency prevention commission shall be appointed by the board of supervisors to serve a term of four years, and they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Upon a vacancy occurring in the membership in the commission and upon the expiration in the term of office of any member, a successor shall be appointed by the board of supervisors. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his or her predecessor.

The board of supervisors may appoint initial members to any delinquency prevention commission created after the effective date of the amendment made to this section at the 1973–74 Regular Session of the Legislature to hold office for the following terms: one-half of the membership of an even-numbered commission for a term of two years and one-half plus one of the membership of an odd-numbered commission for a term of two years. The remaining initial members and the term of office of each successor appointed to fill a vacancy occurring on the expiration of a term thereafter shall be four years.

For a delinquency prevention commission existing on the effective date of the amendment made to this section at the 1973–74 Regular Session of the Legislature the board of supervisors may at any time upon the expiration of all the members' terms of office appoint

members to hold office for the following terms: one-half of the membership of an even-numbered commission for a term of two years and one-half plus one of the membership of an odd-numbered commission for a term of two years. The remaining members and the term of office of each successor appointed to fill a vacancy occurring on the expiration of a term thereafter shall be four years.

Notwithstanding the preceding provisions of this section, the board of supervisors shall appoint two or more persons who are between 14 and 21 years of age to membership on a delinquency prevention commission, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority.

SEC. 4. Section 240 of the Welfare and Institutions Code is repealed.

CHAPTER 752

An act to amend Section 3505 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 3505 of the Public Utilities Code is amended to read:

3505. The provisions of this chapter do not apply to:

(a) The transportation of baggage and express which is incidental to the transportation of passengers by passenger stage corporations as defined in Section 226.

(b) The transportation by towing of a disabled vehicle.

(c) The transportation other than by towing of not more than three vehicles, or more than two vehicles in addition to one towed vehicle, when such vehicles are in transit to be repaired or dismantled.

(d) The transportation by towing of a vehicle which was illegally parked.

CHAPTER 753

An act to amend Section 44341 of the Education Code, relating to teacher preparation.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 44341 of the Education Code is amended to read:

44341. (a) For the sole purpose of ascertaining the moral character and true identity of the holder of a credential or an applicant for a credential or the renewal of a credential, the commission is authorized to secure information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, any provision of law to the contrary notwithstanding.

The commission shall maintain the confidentiality of such information in accordance with Chapter 1 (commencing with Section 1798) of Title 1.8 of the Civil Code.

(b) Except for the situation prescribed in subdivision (d), every applicant for a credential or for the renewal of a credential shall be deemed to have given his or her consent for the securing of, and disclosure of, information to the commission for the sole purpose of ascertaining the moral character and true identity of the holder of a credential, the applicant for a credential, or the applicant for the renewal of the credential.

(c) The Department of Justice shall furnish, upon application of the commission or its authorized representative, all information pertaining to any applicant of whom there is a record in its office except that information which may compromise or prejudice an ongoing criminal investigative matter may be withheld until such matter is completed.

(d) With the written consent of an applicant for a credential or a credential holder, the commission upon written request of any private school authority, shall release to that private school authority information and other data relative to the identification or fitness of any applicant for a teaching position in the private school so long as not otherwise prohibited by any other provision of law.

(e) Each application for a credential shall contain notice that the information provided by the applicant is subject to investigation for, and verification of, the applicant's moral character and true identity by means of review of information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, secured by the commission for such purposes.

CHAPTER 754

An act to amend Section 7565 of, to add Sections 7528.4, 7538.6, 7538.7, 7543.5, 7543.6, and 7551.3 to, and to repeal Article 4 (commencing with Section 7545) of Chapter 11 of Division 3 of, the Business and Professions Code, relating to the private investigators and adjusters, and making an appropriation therefor.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 7528.4 is added to the Business and Professions Code, to read:

7528.4. The director may refuse to issue any license provided for in this chapter to any person:

(a) Who has had any license issued to him or her, or it revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension.

(b) If any member of any partnership, or any officer or director of any corporation, or any officer or person acting in a managerial capacity of any firm or association has had any license issued to him or her revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension.

(c) If any member of the partnership, or any officer or director of the corporation, or any officer or person acting in a managerial capacity of the firm or association, was either a member of any partnership, or an officer or director of any corporation, or an officer or person acting in a managerial capacity of any firm or association, whose license has been revoked, or whose license is under suspension, or who failed to renew a license while it was under suspension, and while acting as such member, officer, director, or person acting in a managerial capacity participated in any of the prohibited acts for which any such license was revoked or suspended.

SEC. 2. Section 7538.6 is added to the Business and Professions Code, to read:

7538.6. No person licensed as a private patrol operator shall do any of the following:

(a) Fail to properly maintain an accurate and current record of all firearms or other deadly weapons that are in the possession of the licensee or of any employee while on duty.

(b) Fail to properly maintain an accurate and current record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated.

(c) Fail to properly maintain an accurate and current record of proof of completion by each employee of the licensee of the course of training in the exercise of the power to arrest as required by

Section 7514.1.

(d) Fail to certify an employee's completion of the course of training in the exercise of the power to arrest prior to placing such employee at a duty station.

(e) Fail to either certify proof of current and valid registration for each employee who is subject to registration or fail to require an employee to complete an application for registration within three working days after employing an individual who does not possess a current and valid registration from the department.

(f) Permit any employee to carry a firearm or other deadly weapon without first ascertaining that such employee is proficient in the use of each weapon to be carried. With respect to firearms, evidence of proficiency shall include a certificate from a firearm training facility approved by the director certifying that such employee is proficient in the use of that specified caliber of firearm and a current and valid firearm qualification permit issued by the department. With respect to other deadly weapons, evidence of proficiency shall include a certificate from a training facility approved by the director certifying that such employee is proficient in the use of that particular deadly weapon.

(g) Fail to deliver to the director a written report describing fully the circumstances surrounding the discharge of any firearm by a licensee or any officer, partner, or employee of a licensee while acting within the course and scope of his or her employment within seven days after the incident. Such report shall include, but not be limited to, a description of any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted.

(h) Fail to notify the director in writing and within 30 days that a manager previously qualified by the department is no longer connected with the licensee.

SEC. 3. Section 7538.7 is added to the Business and Professions Code, to read:

7538.7. No uniformed employee of a private patrol operator shall do any of the following:

(a) Fail to carry on his or her person while on duty either a valid and current security guard registration card or a copy of a valid application for such a registration card.

(b) Fail to carry on his or her person a valid and current firearms permit when carrying a firearm on duty.

(c) Carry or use a firearm unless he or she possesses a valid and current firearms permit from the department and evidence of proficiency in the use of the weapon carried. Proficiency may be evidenced by a certificate from a firearm training facility approved by the director certifying that such person is proficient in the use of that specified caliber of firearm.

SEC. 4. Section 7543.5 is added to the Business and Professions Code, to read:

7543.5. If, upon investigation, the director determines a licensee,

including a corporation, or registrant is in violation of Section 7538.6, 7538.7, or 7551.3 of this chapter, the director may issue a citation to such licensee or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine. The amount of the fine shall in no event exceed one thousand dollars ($1,000).

A citation or fine assessment shall inform the licensee or registrant that if he or she desires a hearing to contest the finding of a violation, such hearing shall be requested by written notice to the director within 20 days of the issuance of the citation or assessment, as appropriate. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If the licensee or registrant neither requests a hearing nor pays the assessed fine within 20 days of the assessment, the director shall suspend the license or registration of such person 30 days after the assessment.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator and Adjuster Fund.

SEC. 5. Section 7543.6 is added to the Business and Professions Code, to read:

7543.6. The director may assess fines for the following acts only as follows:

(a) Violation of subdivision (a) of Section 7538.6; twenty-five dollars ($25) per violation.

(b) Violation of subdivision (b) of Section 7538.6; twenty-five dollars ($25) per violation.

(c) Violation of subdivision (c) of Section 7538.6; twenty-five dollars ($25) per violation.

(d) Violation of subdivision (d) of Section 7538.6; one hundred dollars ($100) per violation.

(e) Violation of subdivision (e) of Section 7538.6; twelve dollars ($12) per violation for the first ten violations and fifty dollars ($50) per violation for each violation thereafter.

(f) Violation of subdivision (f) of Section 7538.6; two hundred fifty dollars ($250) per violation.

(g) Violation of subdivision (g) of Section 7538.6; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

(h) Violation of subdivision (h) of Section 7538.6; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

(i) Violation of subdivision (a) of Section 7538.7; ten dollars ($10)

per violation.

(j) Violation of subdivision (b) of Section 7538.7; ten dollars ($10) per violation.

(k) Violation of subdivision (c) of Section 7538.7; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

SEC. 6. Article 4 (commencing with Section 7545) of Chapter 11 of Division 3 of the Business and Professions Code is repealed.

SEC. 7. Section 7551.3 is added to the Business and Professions Code, to read:

7551.3. The director may suspend the license or registration of any person who fails to notify the bureau of any change of address within 15 days of such change.

Any license or registration suspended pursuant to this section may only be reinstated upon the payment of a fee of fifteen dollars ($15) for registrants or twenty-five dollars ($25) for licensees.

SEC. 8. Section 7565 of the Business and Professions Code is amended to read:

7565. Every license, branch office certificate and pocket card issued under this chapter shall expire at 12 midnight on May 31 of each even-numbered year. Initial license fees shall be prorated as prescribed in this chapter. To renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or certificate as the director may prescribe, and renewal pocket cards for the persons mentioned in Section 7533, shall be issued to the licensee.

CHAPTER 755

An act to repeal and add Section 8371 of, and to repeal Sections 8372 and 8373 of, the Water Code, relating to flood control.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 8371 of the Water Code is repealed.

SEC. 2. Section 8371 is added to the Water Code, to read:

8371. The department shall, in connection with the flood control works of the Sacramento River Flood Control Project, make inspections and prepare reports which are required because of assurances given to the Secretary of the Army pursuant to Article 2 (commencing with Section 8615) of Chapter 3 of Part 4 of this division.

SEC. 3. Section 8372 of the Water Code is repealed.

SEC. 4. Section 8373 of the Water Code is repealed.

CHAPTER 756

An act to amend Section 4011 of, and to add Sections 407 and 24016 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 407 is added to the Vehicle Code, to read:

407. A "motorized quadricycle" is a four-wheeled device designed to carry not more than two persons, including the driver, and having either an electric motor or a motor with an automatic transmission developing less than two gross brake horsepower and capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground. The device shall be utilized only by a person who by reason of physical disability is otherwise unable to move about as a pedestrian or by a senior citizen as defined in Section 13000.

SEC. 2. Section 4011 of the Vehicle Code is amended to read:

4011. A self-propelled wheelchair, invalid tricycle, or motorized quadricycle while being operated by a person who by reason of physical disability is otherwise unable to move about as a pedestrian is exempt from registration.

SEC. 3. Section 24016 is added to the Vehicle Code, to read:

24016. Motorized quadricycles, as defined in Section 407, shall comply with the requirements contained in this division which are applicable to motor-driven cycles, as defined in Section 405.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 757

An act to amend Section 22122 of, to add Sections 23905, 23905.1, and 23905.2 to, and to repeal Sections 23904.5 and 23905 of, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 22122 of the Education Code is amended to read:

22122. "Disability" or "disabled" means any medically determinable physical or mental impairment which is permanent or which can be expected to last continuously for at least 12 months, measured from the onset of the disability, but no earlier than the day following the last day of on the job performance which prevents a member from performing the member's usual duties for the member's employer or the duties of a comparable level for which the member is qualified within a reasonable period of time by education, training, or experience. Any impairment from a willful self-inflicted injury shall not constitute a disability.

SEC. 2. Section 23904.5 of the Education Code is repealed.

SEC. 3. Section 23905 of the Education Code is repealed.

SEC. 4. Section 23905 is added to the Education Code, to read:

23905. Any member qualifying for disability allowance pursuant to Section 23902 with a disabling impairment amenable to treatment that could be expected to restore ability to perform the member's usual duties or those of a comparable level shall participate in a treatment program prescribed by the member's treatment sources. Willful failure to initiate and continue participation in the program shall cause the disability allowance to be terminated. In determining whether a member has good cause for failure to follow such treatment, the board shall take into account whether such treatment would abridge the member's right to the free exercise of religion.

SEC. 5. Section 23905.1 is added to the Education Code, to read:

23905.1. Any member qualifying for a disability allowance pursuant to Section 23902 who is determined by the board to have a mental, physical, or vocational rehabilitation potential that could be expected to restore ability to perform the member's usual duties or those of a comparable level shall participate in an appropriate program approved by the board. The board shall pay all reasonable costs of the approved program. Willful failure to initiate and continue participation in such a program shall cause the disability allowance to be terminated. In determining whether a member has good cause for failure to participate in such a program the board shall take into account whether such participation would abridge the member's right to the free exercise of religion.

The board shall only pay the costs of the approved program with funds which are made available for that purpose in the Budget Act for each fiscal year.

SEC. 6. Section 23905.2 is added to the Education Code, to read·

23905.2. In those cases of willful controlled substance abuse or where the board determines a member qualifying for a disability allowance pursuant to Section 23902 has mental, physical, or vocational rehabilitation potential, the board may limit the disability allowance to a period not to exceed two years from the date of approval of the disability allowance. Notwithstanding Section 23909, the disability allowance shall terminate at the end of the period granted unless extended by the board.

CHAPTER 758

An act to amend Section 710 of, and to add Section 17022.5 to, the Elections Code, relating to elections.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 710 of the Elections Code is amended to read:

710. The county clerk shall preserve all canceled original affidavits of registration for a period of five years, after which they may be destroyed by that officer.

In lieu of preserving the canceled original affidavit of registration, the county clerk may, by filming or other suitable method, record the canceled affidavit and destroy the affidavit following the first general election after the date of cancellation.

SEC. 2. Section 17022.5 is added to the Elections Code, to read:

17022.5. The county clerk shall preserve all rosters of voters for a period of five years, after which they may be destroyed by that officer.

In lieu of preserving the original roster of voters, the county clerk may, by filming or other suitable method, record the original roster of voters and destroy the roster following the next subsequent general election.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to those sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 759

An act to amend Section 84300 of the Government Code, relating to fair political practices.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 84300 of the Government Code is amended to read:

84300. (a) No contribution of one hundred dollars ($100) or more shall be made or received in cash.

A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

(b) No expenditure of one hundred dollars ($100) or more shall be made in cash.

(c) No contribution of one hundred dollars ($100) or more other than an in-kind contribution shall be made unless by written instrument containing the name of the donor and the name of the payee.

(d) The value of all in-kind contributions of one hundred dollars ($100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 8102 of the Government Code.

CHAPTER 760

An act to amend Sections 5508, 5651, 5700, 6001, 6005, 6006, 6051, 6702.2, 7153.9, 7155, and 7177 of, and to add Sections 5255.1 and 6000.1 to, the Financial Code, relating to savings and loan associations.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 5255.1 is added to the Financial Code, to read:

5255.1. The commissioner shall prescribe by regulation the amount of each fee required by the provisions of this division, including both existing provisions and provisions which are added to this division by future enactments.

SEC. 2. Section 5508 of the Financial Code is amended to read:

5508. A filing fee in the amount prescribed by the commissioner pursuant to Section 5255.1 shall be paid to the commissioner with each application for approval of proposed articles of incorporation.

SEC. 3. Section 5651 of the Financial Code is amended to read:

5651. No document changing the name of an association, or setting forth the new name of an association, shall be filed in the office of the Secretary of State unless there is attached to such document a certificate of the commissioner approving the new name proposed for the association. Such certificate shall only be issued by the commissioner, after and upon the same notice, proceedings, upon the same grounds, and subject to the same rules, presumptions and restrictions as are set forth in Article 1 of this chapter in relation to the matters of the name of an association. Notice and hearing shall not be required, however, if the change in name consists only in omitting, including or substituting one or more of the following words: "the," "and," "building," "loan," "savings," and "association." If a hearing is to be held, the commissioner shall mail notice of such hearing to each association in this state at least 20 days before such hearing, and the association requesting the commissioner's approval shall pay him a fee in the amount prescribed by the commissioner pursuant to Section 5255.1 before such notices are mailed.

SEC. 4. Section 5700 of the Financial Code is amended to read:

5700. An association shall not change the location, in whole or in part, of its principal office or of any branch office except with the approval of the commissioner. The commissioner may hold a hearing upon the proposed change. If any person requests a hearing under this section, the commissioner shall hold one. If a hearing is to be held, the commissioner shall mail notice of such hearing to each association in this state at least 20 days before such hearing, and the association requesting the commissioner's approval shall pay him a fee in the amount prescribed by the commissioner pursuant to Section 5255.1 before such notices are mailed.

SEC. 5. Section 6000.1 is added to the Financial Code, to read:

6000.1. A branch license shall take such form as the commissioner may prescribe.

SEC 6. Section 6001 of the Financial Code is amended to read:

6001. The application for a branch license other than for an existing branch proposed to be acquired in connection with a merger shall be accompanied by a filing fee in the amount prescribed by the commissioner pursuant to Section 5255.1, shall be in such form as the

commissioner requires, and shall include an itemized statement of the estimated receipts and expenditures of the association in connection with such branch for the first year or such longer period as the commissioner requires, and a showing that the public convenience and advantage will be promoted by the operation of such branch.

SEC. 7. Section 6005 of the Financial Code is amended to read:

6005. (a) Before issuing a branch license, the commissioner may hold a hearing at the time and place specified in the notice of hearing required by Section 6004. Any person may appear at such hearing in person or by agent or attorney, and pursuant to regulations issued by the commissioner show cause why the branch license should not be issued.

(b) The commissioner may approve an office or offices for an association as its executive or administrative headquarters even though the association may not transact a savings business at such office. A filing fee in the amount prescribed by the commissioner pursuant to Section 5255.1 shall accompany each application for an executive or administrative headquarters office.

SEC. 8. Section 6006 of the Financial Code is amended to read:

6006. Branch licenses continue in force and effect until canceled by the commissioner for cause except that the license for any branch shall expire automatically if such branch is closed for 12 consecutive months, or for such longer period, not exceeding 36 months in the aggregate, as the commissioner, upon application of the association, may have prescribed before the expiration of such original 12-month period.

SEC. 9. Section 6051 of the Financial Code is amended to read:

6051. The application for a service office license shall be accompanied by a filing fee in the amount prescribed by the commissioner pursuant to Section 5255.1, shall be in such form as the commissioner requires, and shall include a statement of the activities intended to be conducted by the association at such service office.

SEC. 10. Section 6702.2 of the Financial Code is amended to read:

6702.2. An association may, subject to regulations of the commissioner, in addition to the 1 percent investment permitted under Section 6702.1, invest in, hold, buy, and sell capital stock obligations or other securities of: (a) any service corporation organized under the provisions of Section 6702.1, or; (b) any corporation or corporations organized under the laws of this state, by an association either individually or jointly with one or more domestic or federal savings and loan associations having their home offices in this state, which corporation shall be known as and be deemed to be a business development credit corporation as such term is used in subdivision (c) of Section 5 of the Home Owners' Loan Act of 1933, as amended. The additional investment of 2 percent authorized by this section in such corporations shall only be permitted on the condition that the investment be used or utilized in the following activities:

(a) Acquisition, construction, repair, and rehabilitation of properties designed for occupancy by the low- and moderate-income families in this state.

(b) Making loans upon the security of the real property, which is designed for occupancy by such low- and moderate-income families.

(c) Development of projects designed to improve housing conditions, secure proper maintenance of the occupied properties, and provide counseling services and employment opportunities for members of low- and moderate-income families.

(d) Investing in securities backed by first mortgages or first deeds of trust on California residential improved real property and guaranteed by the Government National Mortgage Association.

(e) Investments made pursuant to subdivision (d) shall not exceed 1 percent of total assets unless they also qualify under subdivision (a), (b), or (c).

"Low- and moderate-income families," under the provisions of this section, are families who lack income that would enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without overcrowding. Income eligibility limits for such families shall be set forth in the commissioner's regulations.

No association shall make any investment pursuant to this section if its aggregate outstanding investment under this section would thereupon exceed 2 percent of the then total assets of the association, but such investment permitted by this section shall be in addition to that permitted in a service corporation pursuant to Section 6702.1. An association may invest in the same corporation pursuant to this section and Section 6702.1, if such corporation qualifies pursuant to regulations of the commissioner.

SEC. 11. Section 7153.9 of the Financial Code is amended to read:

7153.9. (a) Notwithstanding anything provided to the contrary in this division, the commissioner is empowered to prescribe such rules and regulations as will permit an association, upon the security of residential property, to make loans and advance credit thereon, upon the execution by the borrower of mortgage payment instruments not authorized under the existing law, provided such instruments have prior approval of the commissioner, and the aggregate at any one time of the outstanding loans by an association evidenced by such mortgage payment instruments, does not exceed 10 percent of the association's assets.

(b) The rules and regulations of the commissioner shall be designed to permit limited experimentation to furnish valuable experience and information to the commissioner, the savings and loan industry, and to the public relating to the substance of any permanent regulations or laws which may be forthcoming and to permit savings and loan associations to operate selected pilot projects on a limited basis. The pilot projects and effective period of the regulations shall not exceed four years from the date of the issuance of such regulations and shall place a high priority on the protection of the consumer and encouraging integration and home ownership

for those persons who have previously been excluded from or failed to avail themselves of home ownership. Such regulations, among other things, shall contain provisions relating to the various types of instruments for experimentation, including, but not limited to, forms of graduated payment mortgages, reverse annuity mortgages, flexible payment and flexible rate mortgages and combinations of such mortgages, with the further provision that such alternative mortgage instruments shall be limited in number, simple and comprehensible, and provide adequate opportunities and protections to those persons and classes of persons who have previously not been able to participate in home ownership. The regulations shall also contain a provision requiring that full disclosure be made to potential applicants, among other things, of, the nature and effect of the alternative mortgage payment instrument, the payment due each month of the payment term, and all costs or savings attributed to the alternative mortgage instrument.

(c) A report shall be submitted by the commissioner to the Legislature annually on the 15th day of March of each year commencing the second year following the effective date of this legislation, and the report shall include the numbers and types of such mortgage instruments, and the impact of such instruments on minorities, women, young families, persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and elderly persons.

(d) This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 12. Section 7155 of the Financial Code is amended to read:

7155. An association may make loans on the security of unimproved real property in an amount not in excess of the following amounts:

(a) Seventy percent of the appraised value for an initial or extended term which either singly or in the aggregate may not exceed two years, after which the loan may not be further extended and may be refinanced or modified only with an amortized loan.

(b) Seventy-five percent of the appraised value for a term of not to exceed three years, if the real property is a building lot or site or building lots or sites, ready for the construction on each such building lot or site of a structure designed for residential use for one family or, if the property is a site for the construction of a mobilehome park development as defined in Section 7187.1. Such loan may be extended for an additional period not in excess of three years, provided interest on the loan is then current and the outstanding balance of the loan is or has been reduced to an amount not in excess of 75 percent of the current appraised value of the security property. No loan shall be made under the sole authority of this subdivision if the aggregate amount of such loan and of the balance of all outstanding loans made pursuant to the provisions of this subdivision exceeds 5 percent of the association's assets.

(c) Seventy-five percent of the appraised value for a term of not

to exceed five years, if the real property is a building lot or site ready for construction of a structure designed for residential use for one family. Each loan made pursuant to the provisions of this subdivision shall provide for equal, or substantially equal, monthly payments of principal and interest, or equal monthly payments of principal with interest payable monthly on the unpaid balance, beginning not more than 60 days after disbursement of the loan, sufficient to amortize at least 40 percent of the original principal amount of the loan prior to the end of the loan term. The borrower, including a purchaser who assumes the loan, shall execute a certification in writing stating that no lien or charge on such property, other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan or liens in favor of any public entity or authority to secure payment of taxes, assessments or similar items, has been given or executed by the borrower or has been contracted or agreed to be so given or executed by the borrower or has been contracted or agreed to be so given or executed. The borrower shall further certify in writing that:

(1) It is his intention that the lot which is security for the loan will be the site for construction of his permanent home and is not a site for a seasonal or vacation home, and

(2) Such borrower does not own and is not purchasing any other lot intended to be the site for construction of his permanent home.

SEC. 13. Section 7177 of the Financial Code is amended to read:

7177. Except as provided in Section 7177.5, no association knowingly shall do any of the following:

(a) Directly or indirectly make any loans to a substantial stockholder, or to any officer, director or employee of such association or of such substantial stockholder, or to any member of the immediate family of the persons above enumerated, either for himself or as agent or as partner of another, other than loans wholly secured by the pledge of its shares or investment certificates.

(b) Acquire any loans from any of the persons enumerated in subdivision (a) of this section.

(c) Make any loans, the proceeds of which are intended to inure to the benefit of any of the persons enumerated in subdivision (a) of this section, except that a loan may be made to a purchaser in connection with the purchase of a single-family dwelling or mobilehome which is owned and occupied as a principal residence by a salaried officer or employee, provided that in the case of a salaried officer, the loan is approved in advance by a majority of the entire board of directors of the association with no director having an interest in the transaction voting.

CHAPTER 761

An act to amend Section 14790 of, to add Section 14790.5 to, and to add Article 2.5 (commencing with Section 14816) to Chapter 6 of Part 5.5 of Division 3 of Title 2 of, the Government Code, relating to electronic data processing.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 14790 of the Government Code is amended to read:

14790. Purchases by the Regents of the University of California are not subject to this article or to Article 2.5 (commencing with Section 14816). Notwithstanding any other provision of law, purchases by the Trustees of the California State University and Colleges not exceeding one thousand dollars ($1,000) are exempt from this article and Article 2.5 (commencing with Section 14816).

SEC. 2. Section 14790.5 is added to the Government Code, to read:

14790.5. Purchases of electronic data processing supplies and equipment as provided for in Article 2.5 (commencing with Section 14816) of this chapter are not subject to this article.

SEC. 3. Article 2.5 (commencing with Section 14816) is added to Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 2.5. Acquisition of Electronic Data Processing Goods and Services

14816. The Legislature finds that the unique aspects of electronic data processing systems and the importance of such systems to state programs warrant a separate acquisition authority for electronic data processing goods and services. The Legislature further finds that such separate authority should enable the timely acquisition of goods and services in order to meet the state's needs in the most cost-effective manner.

All contracts for the acquisition of electronic data processing services and all contracts for the acquisition of electronic data processing goods, whether by lease or purchase, shall be made by or under the supervision of the Department of General Services.

14816.1. It is the intent of the Legislature that policies developed by the Department of Finance and procedures developed by the Department of General Services in accordance with Section 14816.2 provide for:

(a) The expeditious and cost-effective acquisition of electronic data processing systems to satisfy state requirements.

(b) The acquisition of electronic data processing goods and services within a competitive framework.

(c) The delegation of authority by the Department of General Services to each state agency which has demonstrated to the department's satisfaction the ability to conduct cost-effective electronic data processing goods and services acquisitions.

(d) The exclusion from state bid processes, at the state's option, of any vendor having failed to meet prior contractual requirements related to electronic data processing goods and services.

(e) The review and resolution of protests submitted by a vendor or vendors with respect to any electronic data processing goods and services acquisition.

Further, it is the intent of the Legislature that, if a state electronic data processing advisory committee is established by the Governor or the Director of Finance, the policies and procedures developed by the Director of Finance and the Director of General Services in accordance with this article shall be submitted to such committee for review and comment, and that such comment be considered by both departments prior to the adoption of any such policy or procedure.

14816.2. The Department of Finance and the Department of General Services shall maintain in the State Administrative Manual, policies and procedures governing the acquisition and disposal of electronic data processing goods and services. Such policies and procedures shall, in accordance with the intent of the Legislature as expressed in Section 14816.1, provide for the following:

(a) Acquisition of electronic data processing goods and services shall be conducted through competitive means, except when the Director of General Services determines that (1) the goods and services proposed for acquisition are the only goods and services which can meet the state's need, or (2) the goods and services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety. The acquisition mode to be used and the procedure to be followed shall be approved by the Director of General Services. The Department of General Services shall maintain in the State Administrative Manual appropriate criteria and procedures to ensure compliance with the intent of this article. These criteria and procedures shall include acquisition and contracting guidelines to be followed by state agencies with respect to the acquisition of electronic data processing goods and services. Such guidelines may be in the form of standard formats or model formats.

(b) Contract awards shall be based on the proposal which provides the most cost-effective solution to the state's requirements, as determined by the evaluation criteria contained in the solicitation document. Such evaluation procedures may provide for the selection of a vendor on a basis other than cost alone.

(c) Evaluation of bidders' proposals for the purpose of determining contract award shall provide for consideration of a bidder's best financing alternative unless the acquiring agency can

demonstrate to the satisfaction of the Department of General Services that a particular financing alternative should not be so considered.

(d) Acquisition authority may be delegated by the Director of General Services to any state agency which has been determined by the Department of General Services to be capable of effective use of such authority. Such authority may be limited by the Department of General Services. Acquisitions conducted under delegated authority shall be reviewed by the Department of General Services on a selective basis.

(e) To the extent practical, the solicitation documents shall provide for a contract to be written to enable acquisition of additional items to avoid essentially redundant acquisition processes when it can be determined that it is economical to do so.

(f) Protest procedures shall be developed to provide bidders an opportunity to protest formally with respect to any acquisition conducted in accordance with this article. Authority to protest may be limited to participating bidders. The Director of General Services, or a person designated by the director, is authorized to consider and decide on initial protests. A decision regarding an initial protest shall be final. If prior to making the award, any vendor who has submitted an offer files a protest with the department against the awarding of the contract or purchase order on the ground that his bid or proposal should have been selected in accordance with the selection criteria in the solicitation document, such contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relating to the protest. Within 10 calendar days after filing a protest, the protesting vendor shall file with the State Board of Control a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

(g) Electronic data processing goods which have been determined to be surplus to state needs shall be disposed of in a manner which will best serve the interests of the state. Procedures governing the disposal of surplus goods may include auction or transfer to local govenmental entities.

(h) A vendor may be excluded from bid processes if the vendor's performance with respect to a previously awarded contract has been unsatisfactory, as determined by the state in accordance with established procedures which shall be maintained in the State Administrative Manual. Such exclusion may not exceed 360 calendar days for any one determination of unsatisfactory performance. Any vendor excluded in accordance with this section shall be reinstated as a qualified vendor at any time during this 360 day period, upon demonstrating to the department's satisfaction that the problems which resulted in the vendor's exclusion have been corrected.

14816.3. In addition to the mandatory requirements enumerated in Section 14816.2, the acquisition policies developed and maintained by the Department of Finance and procedures developed and

maintained by the Department of General Services in accordance with this article may provide for:

(a) Price negotiation with respect to contracts entered into in accordance with this article.

(b) System or equipment component performance, or availability standards, including an assessment of the added cost to the state to receive contractual guarantee of a level of performance.

(c) Requirement of a bond or assessment of a cost penalty with respect to a contract or consideration of a contract offered by a vendor whose performance has been determined unsatisfactory in accordance with established procedures maintained in the State Administrative Manual as required by Section 14816.2.

14816.4. In any acquisition subject to this article involving the replacement of a computer central processing unit, if only one bid is received, and that bid is from the vendor whose equipment is being replaced, a notification of intent to award a contract to such sole bidder shall be submitted to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee not less than 30 days prior to an award of contract. Such notification shall describe the rationale for the award and the measures taken by the state to elicit more than one bid.

14816.5. The Department of General Services and the Department of Finance shall coordinate in the development of policies and procedures which implement the intent of this article. The Department of Finance shall have the final authority in the determination of any such general policy and the Department of General Services shall have the final authority in the determination of any such procedure.

14816.6. The Department of General Services may, in addition to fulfilling the mandatory requirements enumerated in Section 14816.2, adopt such rules and regulations as are necessary for the purposes of this article.

14816.7. The Department of General Services shall report by January 15th of each year to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee as to acquisitions accomplished in accordance with this article. Such reports shall address any significant problems encountered in the implementation and use of the authority provided in this article, measures taken to resolve such problems, and to the extent deemed necessary, recommended changes to this article or other statutes. The information to be provided regarding acquisitions may be summarized, but shall include such information as: (1) the number of noncompetitive awards and the reasons for each such award; (2) the extent to which acquisitions have been delegated, and to which departments; (3) information as to formal protests by bidders; and (4) such other information as will provide a meaningful accounting of acquisitions made in accordance with this article.

This section shall be operative until January 1, 1983, at which time it is repealed.

14816.8. Until such time as the Department of General Services has published in the State Administrative Manual the procedures required in accordance with Section 14816.2, acquisitions of electronic data processing goods and services shall be accomplished in accordance with either existing State Administrative Manual procedures for the acquisition of electronic data processing goods and services, or Article 2 (commencing with Section 14790) of this chapter, as determined by the Department of General Services.

14817. The Director of General Services may make the services of the department under this article available, upon such terms and conditions as may be deemed satisfactory, to any tax-supported public agency in the state, including a school district, for assisting the agency in the purchase or lease of electronic data processing goods or services.

14817.1. The Department of General Services is authorized to make purchases or leases of electronic data processing goods and services, other than printed material, on behalf of any city, county, city and county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods or services, upon written request of such local agency; provided that such purchase or lease can be made by the Department of General Services upon the same terms, conditions and specifications at a price lower than the local agency can obtain through its normal acquisition procedures. The state shall incur no financial responsibility in connection with purchases for local agencies under this section. No purchase or lease shall be for less than five hundred dollars ($500) and the local agency shall accept sole responsibility for payment to the vendor. All purchases and leases shall be subject to audit and inspection by the local agency for which made.

Purchases and leases under this section shall be subject to the provisions of this article.

A charge shall be made to each local agency availing itself of this service, such charge to be not less than the estimated cost to the department of rendering the service, including costs incurred by the department in preparation for a purchase or lease requested by a local agency in instances where such request is canceled or withdrawn by the local agency prior to award of the contract or purchase order by the department.

14817.2. The definitions pertaining to electronic data processing as contained in Section 11700 and the State Administrative Manual shall apply to this article.

14818. Any contract for electronic data processing goods or services, to be manufactured or performed by the contractor especially for the state and not suitable for sale to others in the ordinary course of the contractor's business may provide, on such terms and conditions as the department deems necessary to protect

the state's interests, for progress payments for work performed and costs incurred at the contractor's shop or plant, provided that not less than 10 percent of the contract price is required to be withheld until final delivery and acceptance of the goods or services, and provided further, that the contractor is required to submit a faithful performance bond, acceptable to the department, in a sum not less than one-half of the total amount payable under the contract securing the faithful performance of the contract by the contractor.

CHAPTER 762

An act to add Article 11.6 (commencing with Section 73750) to Chapter 10 of Title 8 of the Government Code, relating to courts.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Article 11.6 (commencing with Section 73750) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 11.6. Madera County

73750. This article applies to the municipal court established in a judicial district embracing the County of Madera. This court shall be known as the Madera County Municipal Court.

73751. There shall be two judges.

73752. (a) Facilities for the court shall be maintained at the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

(b) The judges of the court may, by rule, establish an area surrounding a court location from which jurors for trials held at that location shall be selected.

73753. There shall be one marshal who shall be appointed by the board of supervisors from among the constables of the superseded judicial districts on the operative date of this section and who shall receive as compensation the salary of eighteen thousand eight hundred fifty dollars ($18,850).

73754. The constable in any superseded judicial district on the operative date of this section who is not appointed marshal shall become a Deputy Marshal II and shall receive as compensation the salary specified in Range 332.5. The deputy constable of the superseded Madera-Sierra Judicial District on the operative date of this section shall become a Deputy Marshal I and shall receive as compensation the salary specified in Range 331.5.

73755. The marshal, with the approval of the Madera County Civil Service Commission and the board of supervisors, may appoint such additional deputy marshals and clerks as may be necessary.

73756. All clerical employees of the superseded justice courts on the operative date of this section shall become clerical employees of the municipal court as follows:

(a) One Supervising Municipal Court Clerk who shall receive the salary specified in Range 26.

(b) Four Municipal Court Clerks II who shall receive the salary specified in Range 24.

(c) Seven Municipal Court Clerks I who shall receive the salary specified in Range 22.

(d) One Municipal Court Clerk I (½ time) who shall receive the salary specified in Range 22.

The judges of the municipal court, with the approval of the Madera County Civil Service Commission and the board of supervisors may appoint such additional employees as may be necessary, each such appointment to remain effective only until January 1 of the second year following the year in which it is made.

73757. (a) Whenever a reference is made to a numbered salary range in any section of this article, the schedule of monthly salaries found in the salary resolution for the County of Madera in effect shall apply.

(b) In the event the board of supervisors of the County of Madera amends the resolution establishing salary ranges and monthly salary rates for the personnel of the County of Madera or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court employees under this article on the effective date of the action of the board of supervisors, or the effective date of this section, whichever is earlier, and shall remain effective only until January 1 of the second year following the year in which such change is made.

73758. The officers, employees, and attachés of the municipal court shall be entitled to the same vacation, sick leave, and similar benefits and privileges as are granted to other employees of the County of Madera under ordinances and resolutions of the board of supervisors.

73759. Official reporters of the municipal court, appointed pursuant to Section 72194 shall receive the fee provided by Section 72195 for their services in reporting testimony and proceedings in court.

73760. All matters affecting the employment, appointment, promotion, demotion, termination, transfer, lay-off, or discipline of such municipal court officers, employees, and attachés which are not specifically determined by this article shall be governed and regulated by the then current ordinances and resolutions of the Madera County Civil Service Commission and the board of supervisors.

73761. All officers, employees, and attachés of the municipal

court shall devote their full time to the performance of their duties.

73762. This article shall become operative upon the consolidation by the board of supervisors of the Chowchilla Judicial District and the Madera/Sierra Judicial District into a single countywide judicial district.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act since, as provided for in Section 6(a) of Article XIII B of the California Constitution, this act is requested by the local agency affected. Moreover, there shall be no claim considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 763

An act to add Section 11100 to, and to add and repeal Section 1360.2 of, the Financial Code, relating to regulated entities.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 1360.2 is added to the Financial Code, to read:

1360.2. In pass-throughs, conventional pass-throughs, or trust certificates which represent beneficial interest in a pool of loans secured by mortgages, deeds of trust, or other instruments constituting a first lien or charge on realty located in the State of California, or any other state, commonwealth, or territory, or the District of Columbia, improved with a residential building or a condominium unit or buildings designed for occupancy by no more than four families, and are rated within the two highest grades by Standard & Poor's Rating Service; provided the amount invested in all securities of the type described in this section does not exceed 10 percent of its shareholders' equity.

Effective January 1, 1983, this section is repealed unless the Legislature, prior to such date, enacts a bill continuing in existence the repealed provisions.

SEC. 2. Section 11100 is added to the Financial Code, to read:

11100. None of the restrictions of Section 1 of Article XV of the California Constitution shall apply to any obligations of, loans made

by, or forbearances of any federal savings and loan association.

SEC. 3. Section 11100, as added to the Financial Code by Section 2 of this act, does not constitute a change in, but is declaratory of, the existing law.

SEC. 4. It is the intent of the Legislature that the repeal effected by Section 1 of this act shall in no way affect investments which were validly made pursuant to Section 1360.2 prior to its repeal.

CHAPTER 764

An act to amend Sections 51231, and 51238 of, and to add Section 51282.3 to, the Government Code, relating to agricultural land.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 51231 of the Government Code is amended to read:

51231. For the purposes of this chapter, the board or council, by resolution, shall adopt rules governing the administration of agricultural preserves, including procedures for initiating, filing, and processing requests to establish agricultural preserves. Such rules shall be applied uniformly throughout the preserve. The board or council may require the payment of a reasonable application fee. The same procedure that is required to establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve. In adopting rules related to compatible uses, the board or council may enumerate those uses, including use for agricultural laborer housing, which are considered to be compatible uses on contracted lands separately from those uses which are to be considered to be compatible uses on lands not under contract within the agricultural preserve.

SEC. 2. Section 51238 of the Government Code is amended to read:

51238. Notwithstanding any determination of compatible uses by the county or city pursuant to this article, unless the board or council after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities are hereby determined to be compatible uses within any agricultural preserve. No land occupied by gas, electric, water, communication, or agricultural laborer housing facilities shall be excluded from an agricultural preserve by reason of such use.

The board of supervisors may impose conditions on lands to be placed within preserves to permit and encourage compatible use of the land, particularly public outdoor recreational uses.

SEC. 3. Section 51282.3 is added to the Government Code, to read:

51282.3. The landowner may petition the board or council for cancellation of any contract if the board or council has determined that agricultural laborer housing is not a compatible use on the contracted lands. Such petition shall stipulate that the purpose of the cancellation is to allow the land to be used exclusively for agricultural laborer housing facilities and shall be deemed to be a petition for cancellation for a specified alternative use of the land. The petition shall be acted upon by the board or council in the manner prescribed in Section 51283.4.

SEC. 4. The Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16140 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act. The report shall be made on or before the first day of October next following the operative date of this act for claims made under subdivision (a) of Section 16113 and shall be made on or before the first day of December next following the operative date of this act for claims made under subdivision (b) of Section 16113. The report shall be made in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

CHAPTER 765

An act to amend Sections 87302, 87305, and 87308 of the Government Code, relating to fair political practices.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 87302 of the Government Code is amended to read:

87302. Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, interests in real property, and sources of income which are reportable. An investment, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the

designated employee by virtue of his or her position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described herein, disclosing reportable investments, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206, 87206.5 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments and interests in real property. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing interests held on the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing interests held on the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing investments, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, interests in real property, and income held at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

SEC. 2. Section 87305 of the Government Code is amended to read:

87305. If after six months following the deadline for submission of the proposed Conflict of Interest Code to the code reviewing body no Conflict of Interest Code has been adopted and promulgated, the superior court may, in an action filed by the commission, the agency, the code reviewing body, any officer, employee, member or consultant of the agency, or any resident of the jurisdiction, prepare a Conflict of Interest Code and order its adoption by the agency or grant any other appropriate relief. The agency and the code reviewing body shall be parties to any action filed pursuant to this

section.

SEC. 3. Section 87308 of the Government Code is amended to read:

87308. Judicial review of any action of a code reviewing body under this chapter may be sought by the commission, by the agency, by an officer, employee, member or consultant of the agency, or by a resident of the jurisdiction.

SEC. 4. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 766

An act to amend the heading of Chapter 4.5 (commencing with Section 10510) of Part 1 of Division 3 of, to amend Sections 10510, 10522, and 10523 of, to add Section 10524 to, to repeal Sections 10524, 10525, and 10526 of, and to repeal Article 3 (commencing with Section 10530) of Chapter 4.5 of Part 1 of Division 3 of, the Unemployment Insurance Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. The heading of Chapter 4.5 (commencing with Section 10510) of Part 1 of Division 3 of the Unemployment Insurance Code is amended to read:

CHAPTER 4.5. CALIFORNIA EMPLOYMENT AND TRAINING PLANNING

SEC. 2. Section 10510 of the Unemployment Insurance Code is amended to read:

10510. It is the intent of the Legislature, in enacting this chapter, to establish and implement a program of comprehensive and coordinated employment and training planning in California. The Legislature recognizes the need for a new employment and training planning structure which will provide for comprehensive analysis of alternative expenditure possibilities for the fiscal resources available in this field. The basic principles of such a system are:

(a) That the employment and training needs at the local, regional, and state levels, be addressed.

(b) That the expenditure of available funds meets the needs at the local level.

(c) That employment and training programs be integrated into a

uniform employment and training services planning system within substate regions.

(d) That such a uniform planning system shall coordinate employment and training programs and eliminate duplication of such programs among state and local agencies.

(e) That decisionmaking be decentralized, insofar as is practicable, to the governmental level closest to the people.

SEC. 3. Section 10522 of the Unemployment Insurance Code is amended to read:

10522. As used in this chapter:

(a) " Employment and training planning" means the coordination of employment and training programs through compilation, analysis and dissemination of data enumerating the amount of employment and training program funds expended in the planning area, the client groups which such expenditures are designed to serve, the employment and training program needs of the planning area, and the alternative expenditure possibilities for such funds. " Employment and training planning" includes analysis of this information and the development of a program for the future expenditures of available employment and training program funds based upon the needs of the residents of the planning area.

(b) " Employment and training plan" means a state plan for the use of funds at local, multijurisdictional, and state levels among the various employment and training programs operating in California with federal funds within the planning area which is covered by the plan, and containing at least the elements required by the federal Comprehensive Employment and Training Act of 1973, as amended (CETA), or specified by Section 10523. These programs include, but are not limited to, programs planned and operated pursuant to:

(1) The state plan required under the Wagner-Peyser Act.

(2) The State Work Incentive (WIN) Plan.

(3) Programs under CETA.

(4) Employment and training programs under the Federal Economic Opportunity Act of 1964, as amended.

(5) The Department of Rehabilitation's regional plans which are submitted by rehabilitation administrators.

SEC. 4. Section 10523 of the Unemployment Insurance Code is amended to read:

10523. Any " employment and training plan" shall contain at least the following elements:

(a) Analysis of the employment and training needs.

(b) Descriptive and forecasting analysis of the changes in employment markets.

(c) Future employment goals in terms of percentages of the population unemployed and triggering mechanisms for greater state participation in employment development programs in times of greatest need.

(d) Description and evaluation of employment and training programs in the planning area.

(e) Flexible expenditure plan covering future employment and training activities.

SEC. 5. Section 10524 of the Unemployment Insurance Code is repealed.

SEC. 6. Section 10524 is added to the Unemployment Insurance Code, to read:

10524. The state employment and training council created pursuant to the Comprehensive Employment and Training Act of 1973, as amended, shall in an advisory capacity participate in developing the state employment and training plan as specified by this chapter.

SEC. 7. Section 10525 of the Unemployment Insurance Code is repealed.

SEC. 8. Section 10526 of the Unemployment Insurance Code is repealed.

SEC. 9. Article 3 (commencing with Section 10530) of Chapter 4.5 of Part 1 of Division 3 of the Unemployment Insurance Code is repealed.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to conform existing provisions of state law governing employment and training planning to requirements of the federal Comprehensive Employment and Training Act of 1973, as amended, for the purpose of ensuring continued federal funding of state employment and training programs, it is necessary for this act to take effect immediately.

CHAPTER 767

An act to amend Section 66412 of the Government Code, relating to subdivisions.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 66412 of the Government Code is amended to read:

66412. This division does not apply to any of the following:

(a) The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks or trailer parks.

(b) Mineral, oil or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) The financing or leasing of any parcel of land, or any portion thereof, in conjunction with the construction of commercial or industrial buildings on a single parcel, unless the financing or leasing is not subject to review under other local agency ordinances regulating design and improvement.

(g) The financing or leasing of existing separate commercial or industrial buildings on a single parcel.

CHAPTER 768

An act to amend Section 903.3 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 903.3 of the Welfare and Institutions Code is amended to read:

903.3. The father, mother, spouse, or other person liable for the support of a minor person, the person himself if an adult, or the estates of such persons shall, unless indigent, be liable for the cost to the county for the sealing of any traffic infraction or traffic misdemeanor records pertaining to such person pursuant to this chapter. The liability of such persons and estates shall be a joint and several liability.

CHAPTER 769

An act to amend Section 4047 of the Health and Safety Code, relating to water conditioning, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 4047 of the Health and Safety Code is amended to read:

4047. No residential water softening or conditioning appliance shall be installed except in either of the following circumstances:

(a) The regeneration of the appliance is performed at a nonresidential facility separate from the location of the residence where such appliance is used.

(b) The regeneration of the appliance discharges to the waste disposal system of the residence where such appliance is used and both of the following conditions are satisfied:

(1) The appliance is certified to control the quantity of salt used per regeneration by a pre-set device and the settings of such device are limited so that a salt efficiency rating of no less than 2850 grains of hardness removed per pound of salt used in regeneration is achieved with a clock control, manually-initiated control, or demand control.

(2) The installation of the appliance is accompanied by the simultaneous installation of the following softened or conditioned water conservation devices on all fixtures using softened or conditioned water, unless such devices are already in place or are prohibited by local and state plumbing and building standards or unless such devices will adversely restrict the normal operation of such fixtures:

(A) Faucet flow restrictors.

(B) Shower head restrictors.

(C) Toilet reservoir dams.

(D) A piping system installed so that untreated (unsoftened or unconditioned) supply water is carried to hose bibs and sill cocks which serve water to the outside of the house, except that bypass valves may be installed on homes with slab foundations constructed prior to the date of installation; or condominiums constructed prior to the date of installation; or otherwise where a piping system is physically inhibited.

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

The law is ambiguous in that it is unclear when the carrying of untreated water to the hose bibs and sill cocks which serve the outside of the house may be performed by means of a bypass valve as well as a full line bypass. Different local agencies are interpreting the law differently, causing uncertainty for the industry and the consuming public. In some instances, it is impossible or prohibitively expensive to install a full line bypass system. Therefore, to clarify the law and to allow consumers to purchase water softening and conditioning appliances which best suit their needs and at a reasonable cost, it is necessary that this act take effect immediately.

CHAPTER 770

An act to amend Sections 37203 and 37208 of the Government Code, relating to cities.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 37203 of the Government Code is amended to read:

37203. Upon allowing a demand or approving a register of audited demands, the mayor shall draw a warrant or warrants upon the city treasurer specifying the purpose for which drawn and the fund from which payment is to be made. The city clerk shall countersign the warrant. The legislative body, by ordinance or resolution, may prescribe an alternative method of drawing warrants and checks.

SEC. 2. Section 37208 of the Government Code is amended to read:

37208. Payroll warrants or checks need not be audited by the legislative body prior to payment. Payrolls shall be presented to the legislative body for ratification and approval at the first meeting after delivery of the payroll warrants or checks.

Warrants or checks drawn in payment of demands certified or approved by the city clerk as conforming to a budget approved by ordinance or resolution of the legislative body need not be audited by the legislative body prior to payment. Budgeted demands paid by warrants or checks prior to audit by the legislative body shall be presented to the legislative body for ratification and approval at the first meeting after delivery of the warrants or checks.

CHAPTER 771

An act to amend Section 25210.4a of the Government Code, to amend Section 26507 of, and to add Sections 26580.1 and 26587.5 to, the Public Resources Code, and to amend Section 5105 of the Streets and Highways Code, relating to seismic safety.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. The Legislature finds and declares that:

(a) The State of California has experienced damaging earthquakes resulting in losses of life and property, and it is a

generally acknowledged fact that California will again experience events that are moderate to severe in the foreseeable future.

(b) Such catastrophic earthquakes have the potential to cause large numbers of casualties and severe social and economic impacts.

(c) Works of man, especially the tens of thousands of occupied public and private buildings in areas that are subject to severe ground shaking during seismic events, are the principal cause of the earthquake hazard in California.

(d) Economically feasible alternatives to reduce earthquake hazardous conditions should be made available to local government since such programs serve a public purpose and promote the prosperity, health, safety, and welfare of the citizens of the State of California.

SEC. 2. Section 25210.4a of the Government Code is amended to read:

25210.4a. The term "miscellaneous extended services" as used in this chapter shall include, but shall not be limited to, the following:

(1) Water service including the acquisition, construction, operation, replacement, maintenance and repair of water supply and distribution systems, including land, easements and rights-of-way and water rights.

(2) Sewer service, including the acquisition, construction, operation, replacement, maintenance and repair of sewage collection, transportation and disposal systems, including land, easements and rights-of-way.

(3) Pest or rodent control.

(4) Street and highway sweeping.

(5) Street and highway lighting including the acquisition, construction, replacement, maintenance and repair of a street or highway lighting system, including land, easements and rights-of-way.

(6) Refuse collection.

(7) Garbage collection.

(8) Ambulance service.

(9) Area planning by an area planning commission established pursuant to Article 11 (commencing with Section 65600) of Chapter 3 of Title 7.

(10) Soil conservation and drainage control.

(11) Animal control.

(12) Services provided by a municipal advisory council established pursuant to Section 31010.

(13) Geologic hazard abatement on public or private property or structures where the board of supervisors determines that it is in the public interest to do so. "Geologic hazard," for purposes of this subdivision, means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any other natural or unnatural movement of land or earth.

SEC. 2.5. Section 25210.4a of the Government Code is amended to read:

25210.4a. The term "miscellaneous extended services" as used in this chapter shall include, but shall not be limited to, the following:

(1) Water service including the acquisition, construction, operation, replacement, maintenance and repair of water supply and distribution systems, including land, easements and rights-of-way and water rights.

(2) Sewer service, including the acquisition, construction, operation, replacement, maintenance and repair of sewage collection, transportation and disposal systems, including land, easements and rights-of-way.

(3) Pest or rodent control.

(4) Street and highway sweeping.

(5) Street and highway lighting including the acquisition, construction, replacement, maintenance and repair of a street or highway lighting system, including land, easements and rights-of-way.

(6) Refuse collection.

(7) Garbage collection.

(8) Ambulance service.

(9) Area planning by an area planning commission established pursuant to Article 11 (commencing with Section 65600) of Chapter 3 of Title 7.

(10) Soil conservation and drainage control.

(11) Animal control.

(12) Services provided by a municipal advisory council established pursuant to Section 31010.

(13) Transportation services.

(14) Geologic hazard abatement on public or private property or structures where the board of supervisors determines that it is in the public interest to do so. "Geologic hazard," for purposes of this subdivision, means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any other natural or unnatural movement of land or earth.

SEC. 3. Section 26507 of the Public Resources Code is amended to read:

26507. "Geologic hazard" means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any other natural or unnatural movement of land or earth.

SEC. 4. Section 26580.1 is added to the Public Resources Code, to read:

26580.1. The district may make improvements to existing public or private structures where the board of directors determines that it is in the public interest to do so.

SEC. 5. Section 26587.5 is added to the Public Resources Code, to read:

26587.5. In the application of Municipal Improvement Act of 1911, Municipal Improvement Act of 1913, or Improvement Bond Act of 1915 proceedings by a district, notwithstanding Section 5222 or 10311 of the Streets and Highways Code, the protests may not be

overruled by an affirmative vote of four-fifths of the board of directors.

However, if a majority protest is found to exist, as provided in Section 5222, or 10311 of that code, the district may use the provisions of Division 32 (commencing with Section 55000) of the Health and Safety Code to pay the costs of an improvement under this division. In the application of Division 32 to proceedings by a district, as used in that division, the term "local agency" means a district and "legislative body" means the board of directors of the district.

SEC. 6. Section 5105 of the Streets and Highways Code, is amended to read:

5105. (a) Whenever, in the opinion of the legislative body, the public interest or convenience may require, the legislative body may undertake any work necessary or incidental to the prevention, mitigation, abatement, or control of a geologic hazard or to repair damages resulting therefrom.

(b) For purposes of this division, "geologic hazard" means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any natural or unnatural movement of land or earth.

(c) Such work may be performed on private property with the prior written consent of the owner thereof, if the legislative body, in the resolution of intention, determines that it is in the public interest to do so.

SEC. 7. Section 5 of this act shall become operative only if Assembly Bill 2155 of the 1979–80 Regular Session is enacted into law and adds Division 32 (commencing with Section 55000) to the Health and Safety Code.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill 1275 are both chaptered and become effective January 1, 1981, both bills amend Section 25210.4a of the Government Code, and this bill is chaptered after Senate Bill 1275, that the amendments to Section 25210.4a proposed by both bills be given effect and incorporated in Section 25210.4a in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Senate Bill 1275 are both chaptered and become effective January 1, 1981, both amend Section 25210.4a, and this bill is chaptered after Senate Bill 1275, in which case Section 2 of this act shall not become operative.

CHAPTER 772

An act to add Sections 241.1, 245.3, and 831.5 to the Penal Code, relating to peace officers.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 241.1 is added to the Penal Code, to read:

241.1. When an assault is committed against the person of a custodial officer as defined in Section 831 or 831.5, and the person committing the offense knows or reasonably should know that such victim is such a custodial officer engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

SEC. 2. Section 245.3 is added to the Penal Code, to read:

245.3. Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a custodial officer as defined in Section 831 or 831.5, and who knows or reasonably should know that such victim is such a custodial officer engaged in the performance of his duties, shall be punished by imprisonment in the state prison for three, four, or five years.

When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

SEC. 3. Section 831.5 is added to the Penal Code, to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a county having a population of 250,000 or less who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of custodial officer may include the serving of warrants, court orders, writs and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or suppressing jail riots, lynchings, escapes or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Every person, prior to actual assignment as a custodial officer, shall have satisfactorily completed the Commission on Peace Officer Standards and Training courses specified in Section 832 and the jail operations training course created under the minimum standards for local detention facilities established by the Board of Corrections

pursuant to Section 6030.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may make warrantless arrests pursuant to Section 836.5 only during the duration of his job; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 773

An act to amend Sections 54.1 and 54.2 of the Civil Code, and to amend Section 17253.5 of the Revenue and Taxation Code, relating to handicapped persons.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 54.1 of the Civil Code is amended to read:

54.1. (a) Blind persons, visually handicapped persons, deaf persons, and other physically disabled persons shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats or any other public conveyances or modes of transportation, telephone facilities, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

As used in this section, "telephone facilities" means tariff items and other equipment and services which have been approved by the

Public Utilities Commission to be used by physically disabled persons in a manner feasible and compatible with the existing telephone network provided by the telephone companies.

(b) (1) Blind persons, visually handicapped persons, deaf persons, and other physically disabled persons shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "Housing accommodations" means any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) Nothing in this subdivision shall require any person renting, leasing or providing for compensation real property to modify his property in any way or provide a higher degree of care for a blind person, visually handicapped person, deaf person, or other physically disabled person than for a person who is not physically disabled.

(4) Except as provided in paragraph (5) of this subdivision, nothing in this part shall require any person renting, leasing, or providing for compensation real property, if such person refuses to accept tenants who have dogs, to accept as a tenant a physically disabled person who has a dog.

(5) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to a blind person or visually handicapped person on the basis that such person uses the services of a guide dog, to a deaf person on the basis that such person uses the services of a signal dog, or to a physically handicapped person on the basis that such person uses the services of a service dog, or to refuse to permit such a blind person or visually handicapped person to keep a guide dog, a deaf person to keep a signal dog, or a physically handicapped person to keep a service dog, on the premises.

Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing such terms in a lease or rental agreement which reasonably regulates the presence of guide dogs, signal dogs, or service dogs, on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of same exists.

As used in this subdivision, "guide dog" means any guide dog or seeing-eye dog which was trained by a person licensed under the provisions of Chapter 9.5 (commencing with Section 7200) of

Division 3 of the Business and Professions Code.

As used in this subdivision "signal dog" means any dog trained to alert a deaf person, or person whose hearing is impaired, to intruders or sounds.

As used in this subdivision, "service dog" means any dog individually trained to the physically disabled participant's requirements including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(6) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to a blind person, visually handicapped person, deaf person, or other physically disabled person on the basis that such physically disabled person is partially or wholly dependent upon the income of his spouse, if the spouse is a party to the lease or rental agreement. Nothing in this subdivision shall, however, prohibit a lessor or landlord from considering the aggregate financial status of a physically disabled person and his spouse.

(c) Persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code, may take dogs, for the purpose of training them as guide dogs, in any of the places specified in paragraphs (a) and (b), above. Such persons shall carry and display, upon request, identification in such form as shall be prescribed by the State Board of Guide Dogs for the Blind.

SEC. 2. Section 54.2 of the Civil Code is amended to read:

54.2. (a) Every totally or partially blind person, or deaf person, or person whose hearing is impaired, or physically handicapped person, shall have the right to be accompanied by a guide dog, signal dog, or service dog, especially trained for the purpose, in any of the places specified in Section 54.1 without being required to pay an extra charge for the guide dog, signal dog, or service dog; provided that he shall be liable for any damage done to the premises or facilities by such dog.

(b) Persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code, may take dogs, for the purpose of training them as guide dogs, in any of the places specified in Section 54.1 without being required to pay an extra charge for the guide dog. Such a person shall, however, be liable for any damage done to the premises or facilities by such dog.

Such persons shall carry and display, upon request, identification in such form as shall be prescribed by the State Board of Guide Dogs for the Blind.

(c) As used in this section the terms "guide dog," "signal dog," and "service dog," shall have the meanings specified in Section 54.1.

SEC. 3. Section 17253.5 of the Revenue and Taxation Code is amended to read:

17253.5. Notwithstanding any other provision of law, expenses

incurred by a visually handicapped person or deaf person or physically handicapped person in connection with the care and maintenance of a guide dog, signal dog, or service dog, including, but not limited to, veterinary fees, shall be deductible pursuant to Section 17253.

As used in this section the terms "guide dog," "signal dog," and "service dog," shall have the meanings specified in Section 54.1 of the Civil Code.

As used in this section "physically handicapped person" means any person who has a physical impairment which severely and permanently restricts mobility of two or more extremities, or who is so severely disabled as to be unable to move without the aid of a wheelchair.

CHAPTER 774

An act to amend Section 66412 of the Government Code, and to add Section 2188.7 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commerical buildings, mobilehome parks or trailer parks;

(b) Mineral, oil or gas leases;

(c) Land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

SEC. 1.3. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores or

similar space within apartment buildings, industrial buildings, commerical buildings, mobilehome parks or trailer parks.

(b) Mineral, oil or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) The financing, leasing, or sale of a leasehold of a parcel within a shopping center under single ownership, unless such financing, leasing, or sale of a leasehold is for a building which is not subject to review under other local agency ordinances which can assure that all necessary public improvements will be provided and that the building complies with applicable local agency ordinances.

SEC. 1.5. Section 2188.7 is added to the Revenue and Taxation Code, to read:

2188.7. (a) Whenever the assessor receives a written request for separate assessment of a community apartment project, a stock cooperative, or a limited equity housing cooperative as defined in Section 11003.2, 11003.4, or 11004 of the Business and Professions Code, or any other similarly organized housing cooperative, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess the individual interests described in subdivision (b) held by the owners of the project or shareholders of the corporation if the conditions specified in subdivision (c) have been met. Whenever a community apartment project or cooperative housing corporation is separately assessed, it shall continue to be separately assessed in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners and occupants of the project or corporation.

(b) For community apartment projects, and similarly organized projects, the interest that is to be separately assessed pursuant to subdivision (a) is the value of the right of exclusive occupancy in a portion of the real property coupled with an undivided interest in the land. For cooperative housing corporations, limited equity housing cooperatives and similarly organized cooperatives, the interest that is to be separately assessed is the value of the right of exclusive occupancy which is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy, together with an interest in appurtenant common areas.

(c) Except as provided in subdivision (a), a separate assessment of any interest described in subdivision (b) may not be made by the assessor unless:

(1) The person making the request certifies that the owners or shareholders have been notified and the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements and a survey plot map of the land showing the location of the improvements on the land, prepared in the form required by Chapter 2 (commencing with Section 66425) of Division 2 of Title 7 of the Government Code, has been recorded with the county recorder and filed with the assessor.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval prior to recordation of the plot map and diagrammatic plan required by subdivision (c).

(e) Notwithstanding the provisions of Section 2605 and regardless of whether the board of supervisors has adopted a resolution in accordance with Section 2700, the tax on interests in a cooperative housing corporation or a limited-equity housing corporation separately assessed pursuant to subdivision (a) shall be entered on the secured roll and may be paid in two installments as provided in Chapter 2.1 (commencing with Section 2700) of Part 5. However, if:

(1) The tax on such separately assessed interest is unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll; and

(2) The tax on such separately assessed interest remains unpaid at the time set for sale to the state, the tax on such separately assessed interest, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.

(f) The tax on an individual interest in a community apartment project, separately assessed pursuant to subdivision (a), shall be a lien solely on such interest and shall be entered on and be subject to all provisions of law applicable to taxes on the secured roll.

(g) The assessor shall provide to the principal office of each community apartment project and cooperative housing corporation within the taxing jurisdiction, at such time and in such manner as he deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(h) The assessor may charge a fee for the initial cost of separately assessing a project or corporation which shall be collected on the tax bill.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 2456 are both chaptered and become effective January 1, 1981, both bills amend Section 66412 of the Government Code, and this bill is chaptered after Assembly Bill No. 2456, that Section 66412 of the Government Code, as amended by Section 1 of Assembly Bill No. 2456 be further amended on the operative date of this act in the form set forth in Section 1.3, of this act to incorporate the changes in Section 66412 proposed by this bill. Therefore, Section 1.3 of this act shall become operative only if this bill and Assembly Bill No. 2456 are both chaptered and become effective January 1, 1981, both bills amend Section 66412, and this bill is chaptered after Assembly Bill No. 2456, in which case Section 1.3 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative.

SEC. 4. This act shall become operative for assessments made on the lien date for the 1981–82 fiscal year and thereafter. However, a county board of supervisors may elect to postpone the operative date of this act for that county to the lien date for the 1982–83 fiscal year.

CHAPTER 775

An act to amend Section 830.4 of the Penal Code, relating to peace officers.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 830.4 of the Penal Code is amended to read:

830.4. (a) The following persons are peace officers while engaged in the performance of the duties of their respective employments:

(1) Security officers of the California State Police Division.

(2) The Sergeant at Arms of each house of the Legislature.

(3) Bailiffs of the Supreme Court and of the courts of appeal.

(4) Guards and messengers of the Treasurer's office.

(5) The Director of the Department of Navigation and Ocean Development and employees of such department designated by him pursuant to Section 71.2 of the Harbors and Navigation Code.

(6) The hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State

Department of Developmental Services, and police officers designated by him pursuant to Section 4312 of the Welfare and Institutions Code.

(7) Any railroad or steamboat company policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(8) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(9) Harbor policemen regularly employed and paid as such by a county, city, or district, and the port warden and special officers of the Harbor Department of the City of Los Angeles. However, notwithstanding the provisions of Section 171c, 171d, or 12027, such persons are not peace officers for purposes of such sections except when designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, as peace officers for such purposes.

(10) (A) Special officers of the Department of Airports of the City of Los Angeles commissioned by the city police commission.

(B) Any such officer so commissioned on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any officer so commissioned after July 6, 1973, shall have completed the course of instruction within 60 days after such commissioning. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(11) The chief of toll services, captains, lieutenants, and sergeants employed by the Department of Transportation on vehicular crossings pursuant to Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code.

(12) Persons employed as members of a security department of a school district pursuant to Section 39670 of the Education Code.

(13) Duly authorized federal employees, when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction such property is situated.

(14) Security guards of the County of Los Angeles.

(15) (A) Persons regularly employed and designated by the Board of Directors of the Monterey Peninsula Airport District as airport policemen.

(B) Any such person employed on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any person so employed after July 6, 1973, shall have completed the course of instruction within 60 days after such

employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(16) Any person regularly employed as an airport security officer by any airport operated by the City and County of San Francisco, Orange County, or the County of San Joaquin if he meets the following requirements:

(A) If employed by the City and County of San Francisco or Orange County on or before July 6, 1973, he shall have completed the course of instruction required by Section 832 by September 1, 1973, or if employed after July 6, 1973, he shall have completed such course of instruction within 60 days after such employment. If employed by the County of San Joaquin on or before September 25, 1973, he shall have completed the course of instruction required by Section 832 by December 1, 1973; or if employed after September 25, 1973, he shall have completed such course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(B) He shall be commissioned as a peace officer by the police commission or the board of supervisors of the city and county, or county, as the case may be, operating the airport.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(D) In the case of any person regularly employed as an airport security officer by any such airport located in the County of San Mateo, he shall either be deputized by, or have the written consent of, the Sheriff of San Mateo County.

(17) Housing authority patrol officers employed by the City of Los Angeles or by the Housing Authority of the County of Contra Costa or by the Housing Authority of the County of Los Angeles, and San Francisco Housing Authority police officers.

(18) (A) Persons regularly employed and designated by the City of Fresno as airport security officers for the Fresno Air Terminal.

(B) Before exercising the powers of a peace officer, all persons so employed shall have satisfactorily completed the course of instruction so required by Sections 832 and 832.1.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(19) Any person regularly employed as an airport security officer by any airport operated by the City of Palm Springs if he meets the following requirements:

(A) If employed by the City of Palm Springs on or before July 1, 1976, he shall have completed the course of instruction required by Section 832 by September 1, 1976, or if employed after July 1, 1976, he shall have completed the course of instruction required by Section 832 within 60 days of employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer.

(B) He shall be commissioned as a peace officer by the City Council of the City of Palm Springs.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(20) Transit police officers of the Southern California Rapid Transit District. Before exercising the powers of a peace officer, any person so employed shall have satisfactorily completed the courses of instruction required by Section 832.

(b) The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed with respect to persons or property the protection of which is the immediate duty of such officer; provided, that the primary duty of any such peace officer pursuant to paragraph (20) of subdivision (a) shall be the enforcement of the law in or about properties owned, operated or administered by the district when performing necessary duties with respect to patrons, employees and properties of the district; provided, further, that he shall not otherwise act as a peace officer in enforcing the law except (1) when in pursuit of any offender or suspected offender from within or about properties owned, operated or administered by the district when performing necessary duties with respect to patrons, employees and properties of the district; (2) to make arrests otherwise lawful for crimes committed, or which there is probable cause to believe have been committed, in his presence or within or about properties owned, operated or administered by the district; or (3) when, while in uniform such officer, as a peace officer, is requested by a peace officer or other person to render such assistance as is appropriate under such circumstances to the officer or other person making such request, or to act upon his complaint.

SEC. 2. It is the intent of the Legislature, if this bill and Senate Bill 1447 are both chaptered and become effective January 1, 1981, both bills amend Section 830.4 of the Penal Code, and this bill is chaptered after Senate Bill 1447, that the amendments to Section 830.4 proposed by this act shall not become operative, and the amendments to Section 830.4 contained in Senate Bill 1447 shall

become law.

CHAPTER 776

An act to add Section 1367.8 to, to add Article 3.7 (commencing with Section 349) to Chapter 2 of Part 1 of Division 1 of, the Health and Safety Code, and to add Sections 10119.7 and 11512.18 to the Insurance Code, relating to diethylstilbestrol, and making an appropriation therefor.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Article 3.7 (commencing with Section 349) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 3.7. Diethylstilbestrol Program

349. For purposes of identifying persons who have been exposed to the potential hazards of diethylstilbestrol while pregnant or prenatally and of educating the public concerning the findings and early detection of associated malignancies and other abnormalities, the department shall establish, promote, and maintain a public and professional information campaign on diethylstilbestrol. Such a campaign shall be conducted throughout the state and shall include, but not be limited to, a concerted effort at reaching those persons or the offspring of persons who have been exposed to diethylstilbestrol while pregnant or prenatally in order to encourage them to seek medical care for screening, early detection, or treatment and follow-up of any diethylstilbestrol-related condition.

349.1. The department shall identify at least one program for screening and follow-up care for each health service area for purposes of referral of persons exposed to diethylstilbestrol while pregnant or prenatally. The department shall consider the provider's compliance with state- and federally-mandated standards, the location in relation to the geographical distribution of persons exposed to diethylstilbestrol, and the capacity of the provider to properly screen for breast cancer, vaginal cancer, cervical cancer, vaginal adenosis, and any other malignancy and abnormal conditions resulting from exposure to diethylstilbestrol. The department shall designate existing facilities presently serving the diethylstilbestrol-exposed population as screening programs pursuant to this section. However, if such existing facilities are not available, training for screening and follow-up may be offered to the personnel in existing facilities and clinics.

349.3. The department may request and shall receive from any department, division, board, bureau, commission, or agency of the state or of any political subdivision thereof such assistance and data as will enable it to properly carry out its activities and effectuate the purposes set forth in this article. The department may also enter into any contract for services as it deems necessary with a private agency or concern upon such terms and conditions as it deems appropriate.

349.4. The department shall present to the Legislature, on or before December 1, 1982, information on the diethylstilbestrol program.

349.5. It is the intention of the Legislature in enacting this statute that funding for this program in subsequent fiscal years be through the normal budgetary process.

SEC. 2. Section 1367.8 is added to the Health and Safety Code, to read:

1367.8. No health care service plan contract which covers hospital, medical, or surgical expenses shall be issued, amended, delivered, or renewed in this state on or after January 1, 1981, if it contains any exclusion, reduction, or other limitations, as to coverage, deductibles, or coinsurance or copayment provisions applicable solely to conditions attributable to diethylstilbestrol or exposure to diethylstilbestrol.

Any provision in any contract issued, amended, delivered, or renewed in this state on or after January 1, 1981, which is in conflict with this section shall be of no force or effect.

SEC. 3. Section 10119.7 is added to the Insurance Code, to read:

10119.7. No group or individual policy of disability insurance which covers hospital, medical, or surgical expenses shall be issued, amended, delivered, or renewed in this state on or after January 1, 1981, if it contains any exclusion, reduction, or other limitations, as to coverage, deductibles, or coinsurance provisions applicable solely to conditions attributable to diethylstilbestrol or exposure to diethylstilbestrol.

All policies subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1981, shall be construed to be in compliance with this section, and any provision in any such policy which is in conflict with this section shall be of no force or effect.

SEC. 4. Section 11512.18 is added to the Insurance Code, to read·

11512.18. No hospital service contract or nonprofit hospital service plan that covers hospital, medical, or surgical expenses on a group or individual basis shall be issued, amended, delivered, or renewed in this state on or after January 1, 1981, if it contains any exclusion, reduction, or other limitation as to coverage, deductibles, or coinsurance provisions applicable solely to conditions attributable to diethylstilbestrol or exposure to diethylstilbestrol.

All contracts or plans subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1981. shall be construed to be in compliance with this section, and any provision

in any such contract which is in conflict with this section shall be of no force or effect.

SEC. 5. It is the intent of the Legislature that the DES (diethylstilbestrol) program be funded through the normal budgetary process for the fiscal year 1981–82.

SEC. 6. The sum of thirty-nine thousand four hundred thirty-one dollars ($39,431) is hereby appropriated from the General Fund without regard to fiscal years to the State Department of Health Services for purposes of Article 3.7 (commencing with Section 349) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

SEC. 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 777

An act to amend Sections 22, 23.5, 70.2, 74, 74.5, 84, 84.5, 85, 92.2, 92.4, 92.5, 100.2, 100.3, 101.5, 101.7, 104.12, 128, 130.1, 130.2, 131, 136.5, 139, 140, 144, 145, 150, 154, 155.5, 156.10, 157, 157.4, 166.5, 184, 188, 188.1, 188.7, 190, 191.5, 192, 193, 194, 199, 199.5, 200, 207, 210, 210.5, 211.5, 218, 254, 256, 261, 262, 387, 418.3, 640, 675, 688, 689, 820.5, 823, 823.5, 824, 826, 828, 880, 881, 1671, 1672, 1802, 1804, 2101, 2107.4, 2109, 2154, 2213, 2214, 2231, 2232, 2233, 2334, 2351, 2359, 2384, 2413, 2453, 2454.5, 2461, 5321, 8145, 8181, 25072, 25073, 25175, 25176, 25177, 25178, 25179, 25200, 25232, 25233, 25281, 25320, 25322, 26082, 26083, 26115, 27173, 27178, 30003, 30100, 30100.1, 30100.5, 30101, 30101.5, 30101.6, 30101.7, 30102, 30104, 30105, 30106, 30107, 30108, 30110, 30111, 30112, 30150, 30150.5, 30151, 30155, 30157, 30200, 30201, 30201.5, 30202, 30203, 30204.1, 30204.4, 30205, 30206, 30207, 30208, 30209, 30211, 30213, 30214, 30216, 30217, 30218, 30219, 30220, 30221, 30222, 30223, 30224, 30225, 30228, 30229, 30232, 30235, 30237, 30238, 30241, 30242, 30243, 30300, 30301, 30302, 30303, 30310, 30313, 30350, 30356, 30400, 30408, 30409, 30410, 30411, 30450, 30451, 30453, 30500, 30502, 30503, 30505, 30506, 30601, 30605, 30608, 30608.2, 30682, 30683, 30684, 30750, 30752, 30753, 30760, 30763, 30764, 30764.5, 30765, 30766, 30771, 30778, 30792, 30793, 30808, 30809, and 30881 of, to add Section 30 to, to repeal and add Section 2355 of, to amend the headings of Article 3 (commencing with Section 30100) and Article 4 (commencing with Section 30150) of Chapter 1 of Division 17 of, to repeal Sections 121, 143.5, 143.6, 146.1, 188.10, 189, 214, 216.2, 216.3, 252.5, 365.1, 418.1, 418.2, 418.4, 443.2, 544.2, 641, 2235, 2394, 30607, 30608.1, 30609, 30681, 30770, 30772, 30773, 30774, 30775, 30775.5, 30777, 30779, 30781, 30782, 30791.5, 30791.6, 30792.1, and 30794 of, to repeal Chapter 8 (commencing with Section

885) of Division 1 of, to repeal Chapter 4.5 (commencing with Section 2160) and Chapter 6 (commencing with Section 2300) of Division 3 of, and to repeal Article 2 (commencing with Section 30651) of Chapter 2, Article 8 (commencing with Section 30798) of Chapter 2, and Chapter 6 (commencing with Section 31300) of Division 17 of, the Streets and Highways Code, relating to transportation.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 22 of the Streets and Highways Code is amended to read:

22. Unless the particular provision or the context otherwise requires, "commission" means the California Transportation Commission.

Any reference in any law or regulation to the California Highway Commission shall be deemed to refer to the California Transportation Commission.

SEC. 2. Section 23.5 of the Streets and Highways Code is amended to read:

23.5. "Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access. If, in the judgment of the commission or the director, the public interest would be advanced thereby, a freeway, as defined herein, may be denominated a "controlled access highway". In all other respects, the "controlled access highway" shall be subject to all provisions of this code pertaining to freeways.

SEC. 3. Section 30 is added to the Streets and Highways Code, to read:

30. "State Highway Account" means the State Highway Account in the State Transportation Fund.

SEC. 4. Section 70.2 of the Streets and Highways Code is amended to read:

70.2. It is hereby declared to be the policy of the Legislature to provide for advance planning and continuity of fiscal policy in the construction and improvement of the state highway system and in the administration of the expenditures from the State Highway Account. The commission shall follow such policy in so far as possible.

SEC. 5. Section 74 of the Streets and Highways Code is amended to read:

74. Any city or county aggrieved by any decision of the department, under the provisions of Division 3 (commencing with Section 2004.5) or under the provisions of Sections 186.3 and 186.5, may, within 30 days after such decision, petition the commission for

a hearing. If a petition is filed, the commission shall hear the petition as soon as conveniently possible and after reasonable notice to such city or county. The commission shall make its order allowing or disallowing the petition, in whole or in part, and the commission's order shall be final and conclusive.

SEC. 6. Section 74.5 of the Streets and Highways Code is amended to read·

74.5. The planning commission and legislative body of a city or county shall, prior to recommending the adoption of a state highway route by the Legislature or the selection of a state highway location by the commission, conduct a public hearing on the subject.

SEC. 7. Section 84 of the Streets and Highways Code is amended to read:

84. Before the department commences the construction of any state highway or of any bridge, viaduct, conduit, pipe, trestle, or other obstruction in connection therewith across any cove, bay, or inlet of the ocean in this state, the department shall submit the plans of the proposed project, insofar as they might affect the use of such cove, bay, or inlet as a small boat harbor, to the Department of Boating and Waterways and shall consider any suggestions made with respect to the integration of the proposed highway project with any proposed plan for the development of a small boat harbor.

SEC. 8. Section 84.5 of the Streets and Highways Code is amended to read:

84.5. During the design hearing process relating to state highway projects that include the construction by the department of a new bridge across a navigable river, there shall be included full consideration of, and a report on, the feasibility of providing a means of public access to the navigable river for public recreational purposes.

SEC. 9. Section 85 of the Streets and Highways Code is amended to read:

85. In order to provide the commission with an independent evaluation of routing proposals as the commission may desire from time to time, the commission may contract with specialists, including, but not limited to, persons trained and experienced in engineering, economics, landscape and design architecture, fish and wildlife management, park and recreation management, history and sociology, agriculture, and urban and regional planning. The commission is authorized to expend any funds in the State Highway Account to carry out the provisions of this section.

SEC. 10. Section 92.2 of the Streets and Highways Code is amended to read:

92.2. Where practical or desirable, the department shall, along any highway under its jurisdiction, possession, or control, replace trees that have been destroyed or removed because of projects undertaken to widen the highway.

Money from the State Highway Account available for the widening of highways shall also be available for the planting of trees pursuant

to this section.

SEC. 11. Section 92.4 of the Streets and Highways Code is amended to read:

92.4. Where a city street or county road abuts upon real property acquired by the state for freeway purposes, the department may contribute toward the cost of construction of the half of such street or road that directly fronts or abuts upon such property if such street or road was established, but not yet constructed, at the time when the location of such freeway was established by the commission.

SEC. 12. Section 92.5 of the Streets and Highways Code is amended to read:

92.5. The department shall install, in all tunnels and underpasses on state highways within metropolitan areas where the tunnel or underpass is of sufficient length to impede radio reception, wires, or other devices which will sustain reception of broadcasts by radios in vehicles traveling through the tunnels and underpasses.

The Legislature declares that the installation of such devices in state highway tunnels and underpasses is an improvement of highways within the meaning of Section 1 of Article XIX of the California Constitution since it will assist law enforcement officers in their patrol duties by enabling them to receive essential radio calls and also will increase the enjoyment of the people in the use of the state highways.

SEC. 13. Section 100.2 of the Streets and Highways Code is amended to read:

100.2. The department is authorized to enter into an agreement with the city council or board of supervisors having jurisdiction over the street or highway and, as may be provided in such agreement, to close any city street or county highway at or near the point of its interception with any freeway or to make provision for carrying such city street or county highway over or under or to a connection with the freeway and may do any and all work on such city street or county highway as is necessary therefor. No city street or county highway shall be closed, either directly or indirectly, by the construction of a freeway except pursuant to such an agreement or while temporarily necessary during construction operations. No city street, county road, or other public highway of any kind shall be opened into or connected with any freeway unless and until the commission adopts a resolution consenting thereto and fixing the terms and conditions on which such connection shall be made and the commission may give or withhold its consent or fix such terms and conditions as, in its opinion, will best subserve the public interest.

SEC. 14. Section 100.3 of the Streets and Highways Code is amended to read:

100.3. From and after the adoption of a resolution by the commission declaring any section of a state highway to be a freeway, the highway described in such resolution shall have the status of a freeway for all purposes of Section 100.2.

Such declaration shall not affect private property rights of access,

and any such rights taken or damaged within the meaning of Section 19 of Article I of the California Constitution for such freeway shall be acquired in a manner provided by law.

No state highway shall be converted into a freeway except with the consent of the owners of abutting lands or the purchase or condemnation of their right of access thereto.

SEC. 15. Section 101.5 of the Streets and Highways Code is amended to read:

101.5. The department may file for record with the State Lands Commission such maps as are necessary to furnish an accurate description of any ungranted swamp, overflow, tide, or submerged lands, the bed of any navigable channel, stream, river, creek, lake, bay, or inlet, or other sovereign lands of the State of California which, in the opinion of the department, are needed as a right-of-way for, and for the protection of, any state highway or as a source of materials for the construction, maintenance, or improvement of any state highway. Upon the approval of such map by the State Lands Commission, the lands described therein shall be reserved for such use by the department and the department is thereupon authorized to enter upon, occupy, and use such lands for such purpose or purposes. Any subsequent grant or permission to use such lands shall be subordinate to such reservation. Any such reservation may be released by the written certificate of the director filed with the State Lands Commission. This section shall not apply to state school lands.

The department shall determine the reasonable value of such right-of-way or materials and shall deposit such amount in the State Parks and Recreation Fund. The amount so deposited shall be considered as part of the cost of construction of the state highways.

SEC. 16. Section 101.7 of the Streets and Highways Code is amended to read:

101.7. (a) The department shall adopt rules and regulations to allow the placement, until January 1, 1981, near exits on those portions of Route 5 located in rural areas, of information signs advertising specific roadside business offering gas, food, lodging, or camping services and on standards for such signs.

The information signs may be placed near the highway exits in addition to other highway signs.

(b) The department shall establish and charge a fee to place and maintain information signs in an amount not less than 25 percent above its estimated cost in placing and maintaining the information signs. Funds derived from the imposition of the fee, after deduction of the cost to the department for the placement and maintenance of the information signs, shall be available, upon appropriation by the Legislature, for safety roadside rest purposes.

SEC. 17. Section 104.12 of the Streets and Highways Code is amended to read:

104.12. The department may lease to public agencies or private entities for any term not to exceed 99 years the use of areas above or below state highways, subject to such reservations, restrictions,

and conditions as it deems necessary to assure adequate protection to the safety and the adequacy of highway facilities and to abutting or adjacent land uses. Authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, which are on active duty and are not merely being stored shall be given preference in the use of such areas, and no payment of consideration shall be required for this use of the areas by such vehicles. Prior to entering into any such lease, the department shall determine that the proposed use is not in conflict with the zoning regulations of the local government concerned. Such leases shall be made in accordance with procedures to be prescribed by the commission, except that, in the case of leases with private entities, such leases shall only be made after competitive bidding unless the commission finds by unanimous vote that in certain cases competitive bidding would not be in the best interests of the state. The possibilities of entering into such leases, and the consequent benefits to be derived therefrom, may be considered by the department in designing and constructing such highways.

Revenues from such leases shall be deposited in the State Highway Account.

SEC. 17.5. Section 121 of the Streets and Highways Code is repealed.

SEC. 18. Section 128 of the Streets and Highways Code is amended to read:

128. The department shall maintain, in each district office, a file of its final construction plans and right-of-way record maps for all completed state highway projects located within the district. The department may file, in the office of the recorder of the county in which any state highway is located, such plans, maps, or drawings of each state highway as the department deems necessary in the public interest, which the county recorder shall accept and file without fee. No certificate need be attached thereto other than the usual title of the department showing the approval of such plans, maps, or drawings by the proper officer or engineer of the department.

All maps filed in the office of a county recorder pursuant to this section shall conform to the provisions of this paragraph. The map shall be legibly drawn, printed, or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for such map shall be 22 by 36 inches in size, shall have clearly shown therein the particular number of the sheet, the total number of sheets comprising the map, and its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width, except that the left side margin shall be two inches in width. In any county using a microfilm system, such plans, maps, or drawings may be microfilmed in lieu of filing.

SEC. 19. Section 130.1 of the Streets and Highways Code is amended to read:

130.1. Upon the completion of the improvement of any portion of any state highway constructed pursuant to Section 130 by the party designated in the contract, the governing body of such party may,

and upon the completion of the whole of any such highway the governing body shall, adopt a resolution declaring such completion and transmit a copy of the resolution to the director.

SEC. 20. Section 130.2 of the Streets and Highways Code is amended to read:

130.2. Upon receipt of the resolution of completion by the director, the control of the state highway, or the portion thereof, declared completed by the resolution shall revert to the State of California and the state shall be liable for its future maintenance and care.

SEC. 21. Section 131 of the Streets and Highways Code is amended to read:

131. Upon the application of the governing authority of any county, city, or other governmental agency, the department may:

(a) Aid in establishing grades and drainage systems for highways.

(b) Advise with any such authority as to the construction, improvement, or maintenance of highways.

(c) Prepare plans, specifications, or estimates for the construction, improvement, or maintenance of highways.

(d) Act as the consulting engineer for any such authority.

(e) Accept moneys from any such governmental unit for deposit in the State Treasury to the credit of any state fund which the department designates. The department shall use such moneys for the acquisition, construction, improvement, or maintenance of highways situated within such governmental unit, in accordance with the plans, specifications, and terms agreed upon. The governing authority of any such governmental unit may pay into the State Treasury, as provided in this subdivision, any moneys in its treasury or raised by the issuance of bonds, which moneys are available for use by such authority for highway purposes.

Any county, by resolution of the board of supervisors, may authorize the State Controller to deduct, from any apportionments to it from the Motor Vehicle Account in the State Transportation Fund or the Motor Vehicle Fuel Account in the Transportation Tax Fund, such amounts as the county may desire to be paid to the department for any work to be done in accordance with this subdivision. Upon such authorization, the State Controller shall transfer such moneys to such fund as the department may designate.

(f) Accept such compensation as may be agreed upon by such authority and the director for engineering services rendered to such authority.

(g) Advance moneys, where the director determines that such advance can be made without interference with state highway work, for emergency construction or maintenance work on highways by state forces, or by state contractor, in cases of disaster due to storms or floods where (1) the Governor has declared an emergency pursuant to Section 188.1, and (2) the agency or agencies having jurisdiction over such highway or highways have, by resolution or contract, agreed to reimburse the department, from succeeding

Highway User Tax Account in the Transportation Tax Fund apportionments or other sources specified in such resolution or contract and available to such agency or agencies for highway purposes, for the entire cost of the work, including not to exceed 10 percent for overhead and administration. In the event such resolution or contract specifies reimbursement from future apportionments to the agency or agencies by the State Controller, the State Controller shall transfer such moneys, in such manner and over such period as may be specified in the resolution or contract, to such fund as the department may designate.

SEC. 22. Section 136.5 of the Streets and Highways Code is amended to read:

136.5. (a) The contracts referred to in Sections 135 and 136 are not subject to the State Contract Act (Chapter 3 (commencing with Section 14250), Part 5, Division 3, Title 2 of the Government Code). Except for emergency work of the type described in subdivision (b), whenever the estimated amount of such a contract exceeds two thousand five hundred dollars ($2,500), it shall be awarded to the lowest responsible bidder, after competitive bidding on such reasonable notice as the department may prescribe. Posting of notice for five days in a public place in the district office within which the work is to be done, or the equipment used, is sufficient. Such contracts shall be subject to the applicable payment bond provisions of Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code. The department may require faithful performance bonds when considered necessary. The advertisement for each contract shall state whether or not a bond shall be required.

(b) In cases of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, accident, or other casualty, tools or equipment may be rented for a period of not to exceed 20 days without competitive bidding, and the department may waive the requirements of Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code to the extent that a contractor may commence performance of the work under the contract for the rental of tools or equipment prior to filing a payment bond with the department. In such a case, no payment shall be made to the contractor until a payment bond covering all work of the contract is filed with the department.

SEC. 23. Section 139 of the Streets and Highways Code is amended to read:

139. The director or the Chief Engineer of the department may require verbal or written reports from any officer, assistant, or employee of the department regarding state highway matters with which such officer, assistant, or employee is engaged. Any officer, assistant, or employee who knowingly renders a false report to the director or the Chief Engineer is guilty of a felony.

SEC. 24. Section 140 of the Streets and Highways Code is amended to read:

140. The department may establish and maintain shops for the

construction, repair, and servicing of any equipment owned or used by the department. The department may purchase and supply such materials and parts, and furnish such labor, as is necessary in the construction, repair, and servicing of equipment for other state departments. The other state departments receiving them shall reimburse the department for the cost of such materials, parts, and labor, including overhead charges.

SEC. 25. Section 143.5 of the Streets and Highways Code is repealed.

SEC. 26. Section 143.6 of the Streets and Highways Code is repealed.

SEC. 27. Section 144 of the Streets and Highways Code is amended to read:

144. The department is authorized to divide or separate any state highway into separate roadways, wherever there is particular danger to the traveling public of collision between vehicles proceeding in opposite directions or from cross traffic, by constructing curbs, central dividing sections, or other physical separations, or by signs, marks, or other devices, in or on the roadway appropriate to designate the dividing line.

The rules governing operation of vehicles on divided highways are contained in Section 21651 of the Vehicle Code.

SEC. 28. Section 145 of the Streets and Highways Code is amended to read:

145. The department is authorized to lay out and construct local service roads on and along any state highway where there is particular danger to the traveling public of collision due to vehicles entering the highway from the side thereof and to divide and separate any service road from the main thoroughfare by raised curbs or dividing sections or by other appropriate devices.

It is unlawful for any person to drive any vehicle into the main thoroughfare from any service road except through an opening in the dividing curb or dividing section or dividing line.

Any person who violates any provision of this section is guilty of a misdemeanor.

SEC. 29. Section 146.1 of the Streets and Highways Code is repealed.

SEC. 30. Section 150 of the Streets and Highways Code is amended to read:

150. When the department, in cooperation with rapid transit districts as provided under Section 75.8 and as a part of its planning coordination with local agencies under Article 6 (commencing with Section 210), recommends that mass public transportation facilities should be located along a proposed freeway corridor in order to establish a planned balanced transportation system, the commission shall consider such recommendation in making its decision as to the location of the freeway.

If the commission determines that the location of mass public transportation facilities should be located along the proposed

freeway corridor, it may also direct the department to plan, design, and construct the freeway so as to provide locations for such facilities, and the cost thereof shall be considered as part of the cost of constructing the state highway. In making such determination, the commission shall consider the extent to which the mass public transportation facilities will reduce the volume of traffic on the proposed freeway and the impact such joint development will have on community values. The commission shall also consider whether the rapid transit district has adopted a general plan for the development of its mass public transportation facilities and the likelihood as to whether sufficient funds will be available for the development of mass public transportation service in such locations. The commission shall authorize the department to provide such locations along federal-aid highways only in those instances where it has received assurances of full federal financial participation in the cost of providing such locations.

If mass public transportation facilities other than roadways and other facilities for use of buses are to be constructed and placed in use in such locations, the department may enter into agreements for the sale of the locations to transit districts for such use at a price equal to the market value of such property at the time of sale. If mass public transportation facilities are not placed in use in the locations provided within five years of completion of the freeway, the department may develop such locations for freeway purposes, or it may lease or otherwise dispose of the locations in accordance with the provisions of this code.

The department may, in cooperation with rapid transit districts, develop exclusive or preferential bus lanes in such locations in accordance with Section 149.

SEC. 30.5. Section 154 of the Streets and Highways Code is amended to read:

154. The department shall encourage the construction and development by counties of portions of the county highways as official county scenic highways and may furnish to the counties any information or other assistance which will aid the counties in the construction or development of such scenic highways.

Whenever the department, with the advice of the Departmental Transportation Advisory Committee, determines that any county highway meets the minimum standards prescribed by the department for official scenic highways, including the concept of the "complete highway," as described in Section 261, it may authorize the county in which the highway is located to designate the highway as an official county scenic highway and the department shall so indicate the highway in publications of the department and in any maps which are prepared by the department for distribution to the public which show the highway.

If the department, with the advice of the Departmental Transportation Advisory Committee, determines that any county highway which has been designated as an official county scenic

highway no longer meets the minimum standards prescribed by the department for official scenic highways, it may, after notice to the county and a hearing on the matter, if requested by the county, revoke the authority of the county to designate the highway as an official county scenic highway.

SEC. 30.7 Section 155.5 of the Streets and Highways Code is amended to read:

155.5. The commission, to the extent constitutionally permitted and if it determines that such actions constitute a highway purpose, may allocate funds from the State Highway Account to match on an equal basis the value of any gifts offered and accepted by the department for deposit in the Special Interest Stopping Place Fund and may in such cases, if appropriate, further allocate funds from the State Highway Account for the maintenance of property acquired pursuant to such gifts.

The amount matched for each gift shall be used in conjunction with the gift for the purpose for which the gift was accepted.

SEC. 31. Section 156.10 of the Streets and Highways Code is amended to read:

156.10. (a) The department may construct and maintain nonmotorized transportation facilities approximately paralleling any state highway where the separation of nonmotorized traffic from motor vehicle traffic will increase the traffic capacity or safety of the highway.

(b) Where the separation of nonmotorized traffic from motor vehicle traffic will increase the traffic capacity or safety of the highway, the department shall pay for the construction and maintenance of separate nonmotorized transportation facilities approximately paralleling the highway.

(c) The Legislature finds and declares that the construction and maintenance of such nonmotorized transportation facilities constitute a highway purpose under Article XIX of the California Constitution, and justify the expenditure of highway funds and the exercise of the power of eminent domain therefor.

SEC. 32. Section 157 of the Streets and Highways Code is amended to read:

157. The department shall not construct a state highway as a freeway that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless it provides a reasonable alternate route or such a route exists.

SEC. 33. Section 157.4 of the Streets and Highways Code is amended to read:

157.4. Each annual proposed budget prepared pursuant to Section 165 shall include an amount of not less than three hundred sixty thousand dollars ($360,000) for the construction of nonmotorized transportation facilities to be used in conjunction with the state highway system.

SEC. 34. Section 166.5 of the Streets and Highways Code is

amended to read:

166.5. In order to support its 1979–80 and subsequent fiscal years proposed budgets and to improve its program management, the Department of Transportation shall develop budgeting, accounting, fiscal control, and management information systems to provide at least the following information:

(a) Documentation and control of positions and personnel services expenditures.

(b) Accounting and reporting of revenues and expenditures on a basis generally consistent with provisions of the Government Code.

These systems shall be developed so as to better inform the Legislature in order that responsible legislative oversight of the program and budget of the Department of Transportation would be possible. These systems shall recognize the special characteristics of the department's program.

Development of these systems shall be closely coordinated with the Department of Finance, the Joint Legislative Budget Committee, the Committees on Transportation of the Senate and Assembly, the Subcommittee on Transportation of the Senate Committee on Finance, and the Subcommittee on Transportation of the Assembly Committee on Ways and Means.

SEC. 35. Section 184 of the Streets and Highways Code is amended to read:

184. The department shall set up and keep the accounts necessary to show all expenditures from the State Highway Account for the several purposes authorized or required by this article, and shall make and keep on file in the office of the department an annual statement showing all expenditures from the account.

SEC. 36. Section 188 of the Streets and Highways Code is amended to read:

188. Subject to the provisions hereinafter contained in this article and in Section 825, all money in the State Highway Account expended for construction of state highways, including the acquisition of rights-of-way, construction, reconstruction, and construction engineering, shall be allocated and expended as follows: 40 percent in County Group No. 1 and 60 percent in County Group No. 2. Not more than one-half of 1 percent of the money allocated to the state highways in a particular group may be used as state aid to joint highway districts within such group in accordance with the laws pertaining to the financing of highways within joint highway districts.

This section shall be known and may be cited as the Barnes-Mills-Walsh formula.

SEC. 37. Section 188.1 of the Streets and Highways Code is amended to read:

188.1. None of the provisions of this article or of Section 825 shall apply to the expenditure of either state or federal funds necessary to replace or reconstruct any state highway damaged or destroyed as the result of disaster over a wide area, such as by enemy action,

sabotage, floods, hurricanes, tidal waves, earthquakes, severe storms, or other catastrophes where, at the time of the catastrophe, the Governor declared an emergency, and where such expenditure is authorized pursuant to this section by the commission by resolution, and such resolution is approved by the Governor. In the event the funds expended for replacing or reconstructing the damaged or destroyed state highway exceeds the cost of providing a facility of equal utility with that damaged or destroyed as determined by the director, he shall report the amount of such excess to the commission, and any expenditure in excess of the cost of providing a facility of equal utility shall be subject to all the provisions of this article and Section 825.

SEC. 38. Section 188.7 of the Streets and Highways Code is amended to read:

188.7. Any expenses incurred in connection with any state highway under Article 4 (commencing with Section 2760) and Article 5 (commencing with Section 2780) of Chapter 5 of Title 1 of Part 3 of the Penal Code shall be paid from money in the State Highway Account available for the construction of state highways, but such expenditures shall not be subject to Sections 188 and 188.8.

SEC. 39. Section 188.10 of the Streets and Highways Code is repealed.

SEC. 40. Section 189 of the Streets and Highways Code is repealed.

SEC. 41. Section 190 of the Streets and Highways Code is amended to read:

190. Each annual proposed budget prepared pursuant to Section 165 shall include the sum of fifteen million dollars ($15,000,000), which sum may include federal funds available for grade separation projects, for allocations to grade separation projects, in accordance with Chapter 8 (commencing with Section 2400) of Division 3. The funds included for such purposes pursuant to this section each fiscal year, or by any other provision of law, shall be available for allocation and expenditure without regard to fiscal years.

SEC. 42. Section 191.5 of the Streets and Highways Code is amended to read:

191.5. Any city, city and county, or county may use funds allocated from the State Highway Account or the Highway Users Tax Account in the Transportation Tax Fund to finance the local governmental entity's share of the cost of constructing protective facilities on all mainline grade crossings.

SEC. 43. Section 192 of the Streets and Highways Code is amended to read:

192. In apportioning the State Highway Account money as required by this article, there shall be excluded, from the computations of moneys expended, any sums contributed by any person or governmental unit to pay any portion of the cost of constructing, improving, or maintaining any state highway.

Except as otherwise permitted in this article, any annual or

biennial balances remaining unexpended to the credit of any particular county group shall remain credited to such county group.

SEC. 44. Section 193 of the Streets and Highways Code is amended to read:

193. The State Highway Account money allocated and available each year for state highways shall be expended by the department:

(a) On the locations determined by the commission, to acquire the necessary real property or interests therein for, and to construct or improve to standards justified by traffic requirements, the state highways in the state highway system.

(b) To construct or improve highways in state parks in the manner provided by law.

SEC. 45. Section 194 of the Streets and Highways Code is amended to read:

194. Each annual proposed budget prepared pursuant to Section 165 shall include an amount recommended to be appropriated to the Transportation Planning and Development Account in the State Transportation Fund. The amount shall, to the extent possible, equal the pro rata share of the comprehensive transportation planning duties attributable to highway and to exclusive public mass transit guideway planning and development.

SEC. 46. Section 199 of the Streets and Highways Code is amended to read:

199. Upon the approval of a proposition by the voters of an area pursuant to Section 4 of Article XIX of the California Constitution, the entity, including, but not limited to, a transit district, responsible for construction of an exclusive public mass transit guideway project in that area may submit the project to the department for inclusion in its resource allocation recommendations. If the project is located within an area under the jurisdiction of a statutorily created regional transportation agency, including a county transportation commission, the project shall be approved by the agency prior to being submitted to the department.

The department shall submit its resource allocation recommendations for that project for the comment and review of the transportation planning agency designated in Section 29532 of the Government Code for the area, except that, in the case of a project located within an area under the jurisdiction of a statutorily created regional transportation agency, including a county transportation commission, the project shall be approved by the agency. Each project shall be submitted by the department to the California Transportation Commission for the allocation of funds to the project from those funds appropriated for guideway purposes from the State Highway Account. Allocations shall be made under such terms and conditions as the commission deems appropriate, taking into consideration any recommendation of the department.

The funds set aside pursuant to this section and Section 199.1 shall be deemed expenditures on the state highway system for purposes of Sections 188 and 188.8 and shall be separately identified in the

budget report submitted to the Legislature.

SEC. 47. Section 199.5 of the Streets and Highways Code is amended to read:

199.5. If more than one exclusive public mass transit guideway project from a county is submitted to the California Transportation Commission for review pursuant to Section 199, the commission shall determine the priority of the proposed projects on the basis of the extent the proposed projects meet the regional transportation needs.

SEC. 48. Section 200 of the Streets and Highways Code is amended to read:

200. (a) The total annual allocations by a city, a county, or by the state within a city or county or a transit district in operation on June 5, 1974, of the revenues available from the taxes specified in Section 1 of Article XIX of the California Constitution, and from the taxes specified in Section 2 of Article XIX which are made available for the purposes of Section 1 for public mass transit guideways, as authorized by Section 1 of Article XIX, shall not exceed 25 percent of the total allocations of such revenue by the city, the county, or by the state within the city, county, or transit district.

(b) Upon a finding by the department that the application of the percentage specified in subdivision (a) is insufficient to obtain necessary federal financial participation in public mass transit guideway projects, the percentage may be increased by order of the director by the amount necessary to maximize federal financial participation.

SEC. 49. Section 207 of the Streets and Highways Code is amended to read:

207. The commission may, by resolution, provide a plan under which the department may invest presently unneeded money in the State Highway Account in bonds or interest-bearing notes or obligations of the United States for which the faith and credit of the United States are pledged for the payment of principal and interest, in time bank deposits in eligible banks described in Section 16500 of the Government Code, in deposits in eligible savings and loan associations described in Section 16600 of the Government Code, or in any securities of federal agencies described in Section 16430 of the Government Code. The department may, with the approval of the State Treasurer, invest such excess funds in accordance with the resolution. All such bonds, notes, or obligations purchased under the provisions of this section shall be delivered to the State Treasurer, who shall keep them as a portion of the State Highway Account, and all interest thereon when collected shall be paid into and become a part of the State Highway Account.

All investments made under this section shall be liquidated as soon as the funds invested are required for state highway purposes.

SEC. 50. Section 210 of the Streets and Highways Code is amended to read:

210. It is the purpose of this article to outline the policies of the Legislature for the guidance of the commission and the department

in determining and adopting the locations for state highways as freeways, as authorized elsewhere by law.

To the end of achieving coordinated planning, there should be a complete exchange of pertinent information through conferences between representatives of the department and the governing bodies of appropriate local agencies, their technical staffs, and planning personnel from the commencement of studies leading to the adoption of the freeway location to the time of construction. Recommendations of all such local agencies and the effects of the proposed freeway location upon their activities and present and future development should be considered by the department and the commission. In addition, when sufficient information has been accumulated to permit intelligent discussion, adequately publicized public meetings shall be held so as to assure to all interested individuals, officials, and civic or other groups an opportunity to become acquainted with the studies being made and to express their views with respect thereto.

The director shall notify the Office of Planning and Research and other state agencies concerned with the growth and preservation of the state's resources in order to analyze the socioeconomic factors involved of the proposed freeway routing recommendations of the department, and, if recommendations are received from the Office of Planning and Research or such other affected state agencies, the director shall consider such recommendations in making his freeway location recommendation to the commission.

The recommendation of the director to the commission, as to such freeway locations, shall be publicized and an opportunity offered to local governing bodies to request public hearings by the commission itself before the commission takes final action, in which event the commission shall hold such hearings.

In its consideration of a precise freeway location adoption, the commission shall have available to it the recommendations of the department, and the recommendations, if made, of the Office of Planning and Research and of other affected state agencies and local agencies, in their original form, and shall consider such recommendations in making its decision as to the location of the freeway.

SEC. 51. Section 210.5 of the Streets and Highways Code is amended to read:

210.5. The commission shall employ one or more permanent or temporary presiding officers to preside at such public hearings or meetings as the commission, or the chairman thereof, shall designate and shall perform such other duties as the commission, or the chairman thereof, shall require.

All of such hearings or meetings should proceed in an orderly but informal fashion to the end that all interested persons will be heard as time will permit and should not be conducted in accordance with formal rules of evidence. The commission, or the chairman thereof, shall require such presiding officer or officers to report to the

commission without recommendations regarding statements made and other events occurring at the hearings or meetings over which they have presided.

SEC. 52. Section 211.5 of the Streets and Highways Code is amended to read:

211.5. Where the commission has adopted a location for a freeway, a local agency may request the commission to consider modifications in the route. Should the commission, in its discretion, determine that the suggested modifications in route location merit consideration, the commission shall, on its own motion, hold an adequately publicized public hearing to consider the suggested modifications. The commission, in exercising its discretion, may consider the effect, if any, that the suggested modifications will have upon adjacent local agencies.

If the requested modifications involve locations that extend beyond the boundaries of the local agency requesting the reconsideration, the department shall, after studying the matter and with the approval of the commission, notify the other local agencies within whose boundaries the proposed route modifications are located at least 75 days prior to such a hearing. The commission shall not proceed with the consideration of such proposed modification if any of such local agencies indicates by resolution, adopted at least 45 days prior to the hearing, that it opposes such modification.

The Office of Planning and Research and other affected state agencies shall be notified regarding such suggested modifications. Their recommendations, if any, together with the recommendations of the director, shall be presented to the local agency or agencies and shall be publicized in advance of the public hearing.

Following such public hearing, the commission may, without further notice or hearings, adopt the modified route or any portion thereof.

The purpose of this section is to provide an expeditious procedure for the commission to consider and make modifications to adopted freeway routes. However, unless or until such modifications are adopted by the commission, the previous route adoption shall not be affected, and the commission and the department may take any and all actions permitted by law as to the adopted route during the time the commission is considering the suggested route modification.

SEC. 53. Section 214 of the Streets and Highways Code is repealed.

SEC. 54. Section 216.2 of the Streets and Highways Code is repealed.

SEC. 55. Section 216.3 of the Streets and Highways Code is repealed.

SEC. 56. Section 218 of the Streets and Highways Code is amended to read:

218. The commission and the department shall plan, design, and construct a system of safety roadside rests on the state highway system outside of units of the state park system, and the cost thereof

shall be payable from the State Highway Account. The department shall maintain such safety roadside rests and the costs thereof shall be payable from the State Highway Account.

SEC. 57. Section 252.5 of the Streets and Highways Code is repealed.

SEC. 58. Section 254 of the Streets and Highways Code is amended to read:

254. As specific locations are determined by the commission for portions of state highways included in the California freeway and expressway system, the commission shall designate the particular portion as a part of the California freeway and expressway system and the planning and design of such highways shall include provision for such access control as the department and the commission determine essential to protect the investment of any improvements made and to permit the ultimate development of a full freeway or an expressway when traffic and other conditions require. Such declaration by the commission shall have the effect of declaring the particular portion affected a freeway within the meaning of Section 100.2.

SEC. 59. Section 256 of the Streets and Highways Code is amended to read:

256. The department shall review the California freeway and expressway system and the entire state highway system, and shall report to the Legislature at or prior to the 1975 Regular Session, and each four years thereafter, as to the progress made in developing the systems and as to revisions that should be made in the systems. Such review shall be made without regard to whether particular routes are included in either system. If provision is made by a committee of the Legislature for an advisory committee of local officials to work with the department in connection with such review, the department shall cooperate with such an advisory committee to the fullest extent.

SEC. 59.5. Section 261 of the Streets and Highways Code is amended to read:

261. The department shall, with the advice of the Departmental Transportation Advisory Committee, establish and apply pertinent planning and design standards for development of official scenic highways.

In establishing and applying such standards for, and undertaking the development of, official scenic highways, the department shall take into consideration the concept of the "complete highway," which is a highway which incorporates not only safety, utility, and economy but also beauty. The department shall also take into consideration in establishing such standards that, in a "complete highway," pleasing appearance is a consideration in the planning and design process. In the development of official scenic highways, the department shall give special attention both to the impact of the highway on the landscape and to the highway's visual appearance. The standards for official scenic highways shall also require that local governmental agencies have taken such action as may be necessary

to protect the scenic appearance of the scenic corridor, the band of land generally adjacent to the highway right-of-way, including, but not limited to, (1) regulation of land use and intensity (density) of development; (2) detailed land and site planning; (3) control of outdoor advertising; (4) careful attention to and control of earthmoving and landscaping; and (5) the design and appearance of structures and equipment.

SEC. 59.6. Section 262 of the Streets and Highways Code is amended to read:

262. Whenever the department determines that the corridor protection program for any state highway in the state scenic highway system established by this article has been implemented by local governmental agencies and a plan and program has been developed by the department for bringing the highway up to the standards for official scenic highways established by the department, including the concept of the "complete highway," as described in Section 261, the department shall designate the highway as an official state scenic highway and shall so indicate the highway in any publications of the department or in any maps which are issued by the department to the public.

The department shall cause appropriate signs to be placed and maintained along the portions of the state scenic highway system which the department has designated as official state scenic highways that indicate that the highways are official state scenic highways.

If at any time the department, with the advice of the Departmental Transportation Advisory Committee, determines that the corridor protection program of local governmental agencies, with respect to any highway which has been designated as an official state scenic highway, no longer adequately carries out responsibility of the local governmental agencies for the protection of the scenic corridor, it may revoke the designation of the highway as an official state scenic highway and remove the signs which so indicate the highway.

SEC. 60. Section 365.1 of the Streets and Highways Code is repealed.

SEC. 61. Section 387 of the Streets and Highways Code is amended to read:

387. Route 87 is from:

(a) Route 85 in the vicinity of Pearl Avenue to Route 101 in the vicinity of Guadalupe River.

(b) San Jose easterly of Route 101 to Route 237.

SEC. 62. Section 418.1 of the Streets and Highways Code is repealed.

SEC. 63. Section 418.2 of the Streets and Highways Code is repealed.

SEC. 64. Section 418.3 of the Streets and Highways Code is amended to read:

418.3. The commission is requested to grant high priority for

construction on uncompleted portions of Route 118 for which no construction contract has been awarded, in order to enable the department to award other major construction contracts, so that construction may proceed without delay on the route until it is completed, unless precluded therefrom by any conditions beyond the department's control.

SEC. 65. Section 418.4 of the Streets and Highways Code is repealed.

SEC. 66. Section 443.2 of the Streets and Highways Code is repealed.

SEC. 67. Section 544.2 of the Streets and Highways Code is repealed.

SEC. 68. Section 640 of the Streets and Highways Code is amended to read:

640. It is the intent of the Legislature, in enacting this article, that the numbering of the state highway system be simplified and clarified and that signs placed on highways indicating the numbers thereof designate only one number for each highway wherever feasible. Therefore, the department shall take all steps necessary to conform signs designating numbers on the state highway system to the numbers given the routes in this article at the earliest practical time. The department also shall use the numbers in this article in designating numbers on highways in the future.

The Legislature recognizes that signs on certain routes on the National System of Interstate and Defense Highways in California should designate both U.S. sign numbers and the interstate numbers until such highways are substantially constructed to interstate standards, or until a later time if the department finds it necessary to properly guide motorists. Therefore, notwithstanding any other provision of this section, the department shall, on any interstate highway it determines to be appropriate, place or maintain the proper U.S. number thereon, together with the interstate number on the completed portions thereof, until the highway is substantially constructed to interstate standards, or until a later time if the department finds it necessary to properly guide motorists.

The Legislature further recognizes that there are instances where one route of travel must coincide with another route of travel, and, when this occurs for relatively short distances and notwithstanding any other provision of this section, the department shall place signs indicating two or more appropriate route numbers on the same highway where it determines that such is desirable to properly guide motorists.

SEC. 69. Section 641 of the Streets and Highways Code is repealed.

SEC. 70. Section 675 of the Streets and Highways Code is amended to read:

675. (a) Permittees may excavate openings in state highways to make repairs in cases of emergency requiring immediate action. In such cases, the appropriate representative of the department shall be

promptly notified of any such action, and such permittee, at his own expense, shall immediately replace the state highway in as good condition as before such excavation.

(b) A city or public corporation supplying water service to its inhabitants may, within its corporate limits, excavate a state highway without a permit in cases of emergency requiring immediate action. In such cases, the state highway shall, at the expense of the city or public corporation, be replaced in as good condition as before such excavation.

SEC. 71. Section 688 of the Streets and Highways Code is amended to read:

688. In cases in which the approval of the department is not required, the city or county shall give notice to the department of any application for a franchise affecting a state highway at the time of the filing of such application by any applicant, so that the department may present to the legislative body of the city or county, as the case may be, any considerations by it deemed to be important. Such notice shall be given to the appropriate district director.

SEC. 72. Section 689 of the Streets and Highways Code is amended to read:

689. No privilege shall be exercised in any state highway pursuant to any franchise granted under this article until a copy of such franchise, certified by the clerk of the grantor city or county, has been filed with the department. This may be filed with the district director.

SEC. 73. Section 820.5 of the Streets and Highways Code is amended to read:

820.5. The department may enter into agreements with authorized officials of the United States for the performance of street or highway construction, improvement, or maintenance projects, including the acquisition of necessary rights-of-way therefor, for military, naval, access, and tactical highways, including highways providing access to timber or other natural resources, regardless of whether or not such highways are on the state highway system. As to any project not on the state highway system, such agreement shall provide for full reimbursement to the department, except for general administrative and administrative engineering expenses.

As to any such street or highway, the department and the commission are, and each of them is, authorized to do any and all things in connection therewith as may be done with reference to the state highways. The commission may adopt resolutions authorizing condemnation of property necessary for such highways with like effect as it may with reference to state highways. All provisions of this article shall apply to any work done by the department under any such agreement.

If desired by the United States, title to any real property, or interest therein, acquired by the department in connection with any such street or highway which is not a part of the state highway system may be transferred to the United States, or any agency thereof, by

a conveyance executed on behalf of the State of California by the director. Such conveyance shall only be made in the event the state has been fully reimbursed for any expenditures made in connection with the acquisition of such property or interest therein. Upon completion of the construction of any such highway which is not a state highway, it shall forthwith be turned over to the United States for maintenance and control, if the United States will accept the highway. If the United States will not accept the maintenance and control thereof, such highway shall become a city street or county highway, as the case may be, upon the passage by the commission of a resolution to that effect.

The department may enter into like agreements with authorized officials of the United States to furnish other engineering services, such as laboratory services, upon the condition that the state shall be reimbursed in full therefor.

SEC. 74. Section 823 of the Streets and Highways Code is amended to read:

823. In addition to the purposes for which the moneys in, and to be received in, the State Highway Account have been appropriated, all of the moneys, or so much thereof as may be necessary, is hereby appropriated to, and may be expended by the department for, the performance of such street or highway construction or improvement projects as are agreed upon with the properly authorized officers of the United States, including projects on public or military highways in the State of California which are not a part of the state highway system.

As to such projects on streets or highways which are not a part of the state highway system, such expenditures shall be limited to those items for which the Government of the United States has agreed, and is obligated, to reimburse the state in full, except that the general administrative and administrative engineering expense for which the Federal Government will not repay the state is properly chargeable to the general administration of the department.

SEC. 75. Section 823.5 of the Streets and Highways Code is amended to read:

823.5. The department may maintain any street or highway which is not a part of the state highway system whenever all of the following facts exist:

(a) The department has performed upon such street or highway a construction or improvement project.

(b) Such project was financed, in whole or in part, by moneys contributed by the government of the United States.

(c) Either the governmental agency having jurisdiction over such street or highway, or in the case of annexed areas, the county prior to such annexation, has agreed either with the State of California, acting by and through the department, or with the United States to maintain such street or highway to the satisfaction of the authorized agents of the United States.

(d) The governmental agency having jurisdiction over such street

or highway has failed to so maintain such street or highway, and the authorized agents of the United States have demanded of the department that such street or highway be maintained in accordance with such agreement.

The department shall carefully segregate all items of cost of such maintenance, including not to exceed 10 percent for overhead and administration. In the event the governmental agency having jurisdiction over such street or highway is a county or city, the director shall notify the State Controller of the expenditures by the department on such street or highway. The State Controller thereupon shall deduct from the succeeding apportionments to such county or city from the Highway Users Tax Account in the Transportation Tax Fund the amount certified by the director and shall place such amount in the State Highway Account.

SEC. 76. Section 824 of the Streets and Highways Code is amended to read:

824. Expenditures made from the State Highway Account, to the extent to which the United States is obligated by a project agreement to reimburse the state, shall be considered as advancements made by this state for performance on behalf of the United States and shall not be considered as expenditures of state funds.

Such advancements are not subject to any provisions of law relative to allocation of State Highway Account moneys. Such advancements shall be excluded in making the computations required by Section 11274 of the Government Code and the amount of such advancements made, and to be so excluded during any given period of time, shall be deemed to be equal to the amount received from the Government of the United States as reimbursement for street or highway projects and deposited in the State Treasury during that period of time.

SEC. 77. Section 826 of the Streets and Highways Code is amended to read:

826. All moneys received from the Government of the United States as reimbursement for street or highway construction projects shall be deposited in the State Treasury to the credit of the fund from which the advancements were made. The department shall certify to the State Treasurer the fund in which each payment is required to be deposited.

SEC. 78. Section 828 of the Streets and Highways Code is amended to read:

828. The provisions of this article, as added by the Legislature at its 1955 Regular Session, are not to be considered a change in existing law, but merely a continuation thereof. It is hereby declared to be the intent of the Legislature that the only purpose of repealing and reenacting these provisions is to validate, as a part of the Streets and Highways Code, the original enactment of the provisions of this article by Chapter 360 of the Statutes of 1935 and the subsequent amendments thereto.

SEC. 79. Section 880 of the Streets and Highways Code is

amended to read:

880. Where land not exceeding 300 feet in width intervenes between the right-of-way line of a state highway, either existing or to be constructed, and the mean high tide line of the Pacific Ocean, or bays or estuaries thereof, the land may be acquired as a part of the highway right-of-way acquisition.

Land heretofore or hereafter so acquired may, except when required, in whole or in part, for state highway widening or other state highway requirements, be transferred to the control of the State Park and Recreation Commission and, when so transferred, shall be dedicated in perpetuity for beach, park, and recreational purposes for the benefit and use of the public. However, where such land which is not necessary for state highway purposes is producing oil, gas, or other hydrocarbons, or is within a distance of 660 feet from a producing oil or gas well, then if by a majority vote of the State Park and Recreation Commission and the California Transportation Commission it is determined that the acquisition of an easement thereof is desirable, and if the portion thereof lying between the mean high tide line and the extreme high tide line is not occupied by any well and adequate well sites exist on the remainder of the property, then, in accordance with this section, an easement may be acquired upon and over the portion of such land lying between the mean high tide line and the extreme high tide line as a right-of-way for persons traveling on foot and on horseback and for fishermen and for bathers.

If such land is more valuable for commercial purposes than for recreational purposes by reason of its use or suitability for railroad rights-of-way, docks, wharves, or other shipping or industrial purposes, or is producing oil, gas, or other hydrocarbons, or is within a distance of 660 feet from a producing oil or gas well, or is being zoned by the proper public authority for important commercial development, it shall not be acquired for such park or recreational purposes.

SEC. 80. Section 881 of the Streets and Highways Code is amended to read:

881. Contracts may be entered into between the department and the State Park and Recreation Commission for those acquisitions and transfers specified in Section 880, which contracts shall provide for the payment into the State Highway Account of the entire cost of such acquisition from any appropriation made to the State Park and Recreation Commission for acquisition of beaches or parks.

Nothing in this chapter shall be deemed a limitation on the authority granted to the department under any other provision of this code, or under other law, to acquire property for highway purposes, including beach and shore line property, and nothing in this chapter shall require the department or the California Transportation Commission to acquire for, or to transfer to, the State Park and Recreation Commission any property required for state highway purposes, or to acquire any property for state park system

purposes, when, in the opinion of the California Transportation Commission, the acquisition of such property is not practicable or in the public interest.

SEC. 80.5. Chapter 8 (commencing with Section 885) of Division 1 of the Streets and Highways Code is repealed.

SEC. 80.6. Section 1671 of the Streets and Highways Code is amended to read:

1671. The agreements shall be entered into pursuant to the provisions of Section 8 of the act of Congress, approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," or pursuant to the provisions of Section 23 of the Federal-Aid Highway Act, upon such terms as may be agreed upon by the county and the Secretary of Agriculture.

The county board of supervisors may incur expenses necessary to perform its part of the cooperative agreements, and may pay the cost and expenses of the agreements out of the county general fund or such other fund as the board of supervisors designates or otherwise provides.

SEC. 80.7. Section 1672 of the Streets and Highways Code is amended to read:

1672. Upon request of the proper officer of the United States, together with the order of the board of supervisors of the county, the county treasurer shall deposit with the Federal Reserve Bank to the credit of the United States all money set aside by the board of supervisors under agreements entered into with the United States in accordance with the provisions of the Federal-Aid Highway Act and subsequent acts of like nature. The money shall be paid out by the proper fiscal agent of the United States pursuant to the agreements.

SEC. 80.8. Section 1802 of the Streets and Highways Code is amended to read:

1802. Before taking any action authorized by Section 1801 affecting any state highway, the action shall require the approval of the Department of Transportation.

SEC. 80.9. Section 1804 of the Streets and Highways Code is amended to read:

1804. Every city in the state may construct, maintain, and operate tunnels for street and highway purposes within and without the territorial boundaries of the city. As to any such tunnels on state highways, the approval of the Department of Transportation shall first be obtained.

SEC. 81. Section 2101 of the Streets and Highways Code is amended to read:

2101. All moneys in the Highway Users Tax Account in the Transportation Tax Fund and hereafter received in the account are appropriated for all of the following:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the

mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research and planning for exclusive public mass transit guideways (and their related fixed facilities), the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(c) The construction and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services, in any area where the voters thereof have approved a proposition pursuant to Section 4 of Article XIX of the California Constitution.

(d) The payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (c).

SEC. 82. Section 2107.4 of the Streets and Highways Code is amended to read:

2107.4. Not more than one-quarter of the funds allocated to a city or county from the Highway Users Tax Account in the Transportation Tax Fund for the construction of streets therein may be used to make principal and interest payments on bonds issued for such construction, if the issuance of such bonds is authorized by a proposition approved by a majority of the votes cast thereon. The term of any such bonds shall not exceed 25 years.

SEC. 83. Section 2109 of the Streets and Highways Code is amended to read:

2109. State highways shall be maintained, constructed, and improved out of the moneys received in the State Highway Account under Section 2108. Notwithstanding Section 81, the department is not required to maintain any route, or portion of a route, added after January 1, 1947, until it has been laid out and constructed as a state highway.

SEC. 84. Section 2154 of the Streets and Highways Code is amended to read:

2154. The State Controller shall annually tabulate and compile all such reports received by him and shall distribute copies of such tabulation and compilation to the Governor, the Lieutenant Governor, the Members of the Legislature, the department, the Auditor General, the cities, and the counties and to any legislative committee charged with the investigation of streets, roads, highways, or bridges in this state.

SEC. 86. Chapter 4.5 (commencing with Section 2160) of Division 3 of the Streets and Highways Code is repealed.

SEC. 87. Section 2213 of the Streets and Highways Code is

amended to read:

2213. By agreement with the department, a county may transfer all or part of the funds apportioned to it, and in its discretion matching funds, to a federal-aid secondary road project:

(a) In an adjoining county where the highway connects points in the two counties.

(b) In another county under such terms and conditions as are agreed upon by the department and the counties involved, including provisions relating to the reciprocal advancement of funds between the counties involved.

(c) In a city in the same county.

(d) For use with respect to a state highway in the same county or other county in the same county group as specified in Section 187. Such an expenditure of federal funds or the money apportioned by the state to match the unexpended balance of the federal aid shall not be deemed an expenditure to meet the requirements of Section 188.8.

SEC. 88. Section 2214 of the Streets and Highways Code is amended to read:

2214. Federal-aid secondary funds apportioned to any county under Section 2208 and not claimed or used as provided in Sections 2211 to 2213, inclusive, shall be expended on construction of projects upon the state highway system in the county group, as specified in Section 187, which includes the county from which released, to the extent that such may be done in conformity with federal law. The money apportioned by the state to match the unexpended balance of the federal aid in any county, in accordance with this section and the federal law, shall be deemed an expenditure to meet the requirements of Sections 188 and 188.8.

SEC. 89. Section 2231 of the Streets and Highways Code is amended to read:

2231. The Federal Aid Highway Act of 1973 has authorized appropriations for expenditure within urbanized areas for comprehensive transportation planning purposes. The purpose of this chapter is to implement such program in this state. The commission, the department, appropriate regional and local planning agencies, boards of supervisors, and city councils are authorized to do all things necessary in their respective jurisdictions to secure such federal funds in accordance with the intent of the federal act and of this chapter.

SEC. 90. Section 2232 of the Streets and Highways Code is amended to read:

2232. As used in this chapter, "Transportation Planning and Development Account" means the Transportation Planning and Development Account created in the State Transportation Fund pursuant to Section 99310 of the Public Utilities Code.

SEC. 91. Section 2233 of the Streets and Highways Code is amended to read:

2233. Amounts apportioned to the state pursuant to subsection

(f) of Section 104 of Title 23 of the United States Code shall be identified in the budget of the Transportation Planning and Development Account in the State Transportation Fund. Amounts reimbursed to the state pursuant to subsection (f) of Section 104 of Title 23 of the United States Code shall be deposited in the State Highway Account and credited to the Transportation Planning and Development Account as an expense and reimbursement. All such funds apportioned to the state are continuously appropriated for allocation by the commission from the Transportation Planning and Development Account to metropolitan transportation planning organizations, as defined by federal law and regulations, to perform the metropolitan transportation planning authorized by subsection (f) of Section 104 of Title 23.

SEC. 92. Section 2235 of the Streets and Highways Code is repealed.

SEC. 93. Chapter 6 (commencing with Section 2300) of Division 3 of the Streets and Highways Code is repealed.

SEC. 94. Section 2334 of the Streets and Highways Code is amended to read:

2334. Expenditure of such funds on local streets and roads shall be exempt from the provisions of Sections 188 and 188.8.

SEC. 95. Section 2351 of the Streets and Highways Code is amended to read:

2351. The Federal-Aid Highway Acts of 1970 and 1973 have authorized appropriations for expenditure on the federal-aid urban system within the designated boundaries of urban and urbanized areas for street and highway projects and for public mass transit projects, including the purchase of equipment. The purpose of this chapter is to implement such program in this state. The boards of supervisors, city councils, the department, and the commission are authorized to do all things possible in their respective jurisdictions to secure the federal funds for use on construction of county highways, city streets, and state highways, and for public mass transit projects, in accordance with the intent of the federal act and of this chapter.

SEC. 96. Section 2355 of the Streets and Highways Code is repealed.

SEC. 97. Section 2355 is added to the Streets and Highways Code, to read:

2355. To assist the department and the commission in the performance of their duties under this chapter, there shall be an FAU Systems Advisory Committee, consisting of 14 persons appointed by the Governor.

The committee shall consist of four county representatives recommended by the County Supervisors Association of California, six city representatives recommended by the League of California Cities, a representative recommended by the San Francisco Bay Area Rapid Transit District, a representative recommended by the Southern California Rapid Transit District, a representative of

organizations of public highway users, and a representative recommended by the California Association of Publicly Owned Transit Systems.

Not less than two of the county representatives and not less than three of the city representatives shall be engineers. Each appointee shall serve for a term of four years.

The committee shall participate with the department and the commission in implementing the federal-aid urban system program in this state. The department, in cooperation with the committee, shall establish general guidelines with respect to the urban system program.

SEC. 98. Section 2359 of the Streets and Highways Code is amended to read:

2359. (a) The department may advance the federal share of each urban system project on a county road or a city street from the money appropriated by the Legislature and allocated by the commission in conformance with the requirements of this chapter.

(b) Expenditures of federal urban system funds, or federal general funds substituted therefor, shall be exempt from the provisions of Sections 188 and 188.8.

(c) Counties and cities may use any funds available to them to match funds made available to them, if the use of funds for such matching purposes is not prohibited by federal law or regulations.

SEC. 99. Section 2384 of the Streets and Highways Code is amended to read:

2384. The Legislature finds and declares that the construction of bikeways pursuant to Section 2383 constitutes a highway purpose under Article XIX of the California Constitution and justifies the expenditure of highway funds therefor.

SEC. 100. Section 2394 of the Streets and Highways Code is repealed.

SEC. 101. Section 2413 of the Streets and Highways Code is amended to read:

2413. (a) The department may allocate to the counties and the cities federal funds received for approved bridge reconstruction or replacement projects on county roads or city streets in accordance with procedures promulgated by the director in cooperation with the counties and the cities and approved by the commission.

(b) Expenditures of funds apportioned under the Special Bridge Replacement Program, as well as funds used to match federal funds, shall be exempt from the provisions of Sections 188 and 188.8.

(c) The cities and the counties may use any funds available to them to match funds made available to them under this chapter, if the use of funds for such matching purposes is not prohibited by federal law. "Match," as used in this chapter, means to provide for the payment of the cost of any project to the extent that such cost is not to be reimbursed from federal funds.

SEC. 102. Section 2453 of the Streets and Highways Code is amended to read:

2453. From the funds set aside pursuant to Section 190, as well as from any other funds that may be set aside for purposes of this chapter, the California Transportation Commission shall make allocations for projects contained in the latest priority list established pursuant to Section 2452. Such allocations shall be made for preconstruction costs and construction costs. Where allocations are made to a local agency, the requirements of Sections 2456 and 2457 shall first be met.

SEC. 103. Section 2454.5 of the Streets and Highways Code is amended to read:

2454.5. (a) Whenever the National Railroad Passenger Corporation (AMTRAK) contributes an amount equal to one-third of the total cost to the state and local agencies of a grade separation project, or any lesser percentage as the National Railroad Passenger Corporation (AMTRAK) and the California Transportation Commission may agree upon, the cost to the participating parties under existing law shall be reduced proportionately.

(b) Any such grade separation project may be assigned a priority by the Public Utilities Commission that is higher than the priorities assigned to all other such projects for which the National Railroad Passenger Corporation (AMTRAK) has not made a contribution.

SEC. 104. Section 2461 of the Streets and Highways Code is amended to read:

2461. Allocations for specific projects on the state highway system only shall be deemed expenditures within the county in which the project is situated for the purpose of compliance by the department and the commission with Sections 188 and 188.8.

SEC. 105. Section 5321 of the Streets and Highways Code is amended to read:

5321. All real property acquired by the State of California or any department thereof is property subject to assessment in proceedings conducted under this division, except real property which is acquired prior to the filing in the office of the county recorder of a copy of the map of the assessment district pursuant to Section 3111 and which is located within the right-of-way of a state highway or proposed state highway. For the purposes of this section, property shall be deemed to have been acquired upon the vesting of title, or the filing of a condemnation action, whichever occurs first. The local agency shall notify the Department of Transportation of any proceedings or hearings to be held relative to the establishment of a map of the assessment district pursuant to Section 3111.

SEC. 106. Section 8145 of the Streets and Highways Code is amended to read:

8145. The commission shall have power:

(a) To sue and be sued in its own name.

(b) To adopt a seal.

(c) To lay out, establish, construct, and maintain projects for separation of grade by underpass, overpass, or tunnel, or any combination thereof, over or under one or more city streets, county

roads or highways, state highways, railroads, street railroads, or other intersecting means of transportation, or any combination thereof within the district and, for this purpose, to acquire by purchase, gift, devise, condemnation or otherwise, and pay for and hold real and personal property and rights-of-way within the district. As to any project which would involve a state highway, the commission shall obtain the approval of the department as to the plans and the project shall be constructed pursuant to an agreement between the commission and the department, as may be provided in the agreement. As to any project which would involve a railroad or street railroad, the district shall be governed by Chapter 6 (commencing with Section 1201) of Part 1 of Division 1 of the Public Utilities Code and by any other applicable provisions of law; and for the purposes and within the meaning of Chapter 6 (commencing with Section 1201) of Part 1 of Division 1 of the Public Utilities Code, and for such purposes and meaning only, a "separation of grade district" is hereby declared to be a "political subdivision" and the "commission" of a separation of grade district is hereby declared to be the "legislative body" of a political subdivision.

(d) To enter into an agreement with any city or county to provide for the relocation, redesign, or improvement of any street in the city or county directly affected by, or which is an integral part of, a separation of grade project. The district may expend funds pursuant to such an agreement.

(e) To remove an obstacle to traffic flow which otherwise would require constructing a separation of grade.

(f) To exercise the power of eminent domain to the full extent necessary to carry out this part.

(g) To make and accept all contracts, deeds, releases, and documents of any kind which shall be necessary or proper to the exercise of any of the powers of the district.

(h) To direct the payment of all lawful claims and demands against the district.

(i) To levy and collect taxes as provided.

(j) To borrow for the purpose of defraying general administrative and preliminary engineering expenses of the district prior to the time the money to be raised by the first tax levy for the district will be available, and to evidence such borrowing by nonnegotiable notes bearing interest at a rate to be fixed by the commission. The notes shall be signed by the president, and countersigned by the secretary, of the commission. The notes shall be payable from the first tax levy made by the district, and that tax levy shall contain a sum sufficient to provide for the payment of the notes and the interest thereon.

(k) To issue bonds as provided, and provide for their payment.

(*l*) To employ all necessary engineers, surveyors, agents, and workmen to do the work on, or in connection with, the project or projects in the district; and to contract for engineering services with any city within the district or with the county.

(m) To do any and all things necessary or proper for the complete

exercise of its powers and the accomplishment of the purpose for which it was formed.

SEC. 107. Section 8181 of the Streets and Highways Code is amended to read:

8181. As to any project involving a state highway where the plans have been approved by the department, the commission and the department may enter into and carry out contracts pursuant to Section 130.

SEC. 108. Section 25072 of the Streets and Highways Code is amended to read:

25072. The term of office of any member of the board of directors shall immediately cease upon the termination of the term of office of the director as a member of the board of supervisors of a county within the district, except in the case of a member appointed by the Director of Transportation.

SEC. 109. Section 25073 of the Streets and Highways Code is amended to read:

25073. If an even number of counties comprise a district, an additional member of the board of directors shall be appointed by the directors already named in behalf of the several boards of supervisors. If the directors fail to make the appointment within 30 days after the date set for the first meeting of the board of directors, the secretary of the board shall, or any member thereof may, notify the Director of Transportation of that fact and he shall, within 30 days after receiving the notification, appoint a member of the board of supervisors of any county within the district, or a person residing in the district and owning real property within the boundaries thereof, to serve as the additional member of the board of directors.

SEC. 110. Section 25175 of the Streets and Highways Code is amended to read:

25175. If the report of the project, as adopted by the board of directors, contains a request for contribution from the state, the board shall, immediately upon its adoption, file a certified copy thereof with the Director of Transportation.

SEC. 111. Section 25176 of the Streets and Highways Code is amended to read:

25176. Within 90 days after its receipt, the Department of Transportation, through its proper officers, shall consider and pass upon the report so filed. It may approve or reject the request for contribution, and may reject, approve, or modify the report, in whole or in part, or may suggest modifications thereof. Failure of the department to act on the report within the 90-day period shall operate as a rejection on the part of the state.

SEC. 112. Section 25177 of the Streets and Highways Code is amended to read:

25177. If the whole or any part of the project proposed in the report is approved and a contribution by the state is recommended, the California Transportation Commission shall thereupon adopt a resolution setting forth the amount of the contribution, the time and

manner of payment thereof, and the purposes for which the contribution shall be used, and the state shall be committed and obligated to make the specified contribution out of any funds which are then or thereafter available for joint highway purposes.

SEC. 113. Section 25178 of the Streets and Highways Code is amended to read:

25178. The Director of Transportation shall issue and transmit to the secretary of the district a certificate of commitment showing the decision of his department upon the report and setting forth the amount of contribution, if any, and the terms relative to the payment thereof.

SEC. 114. Section 25179 of the Streets and Highways Code is amended to read:

25179. The board of directors may amend its report of the project to conform with any suggestions, modifications, or recommendations of the Department of Transportation or the California Transportation Commission.

SEC. 115. Section 25200 of the Streets and Highways Code is amended to read:

25200. Upon the receipt of the certificate of commitment from the Director of Transportation, or upon the adoption of the report if no contribution is requested from the state, the board of directors shall transmit certified copies of their report of the project to each of the boards of supervisors of the counties composing the district.

SEC. 116. Section 25232 of the Streets and Highways Code is amended to read:

25232. The final surveys, plans, specifications, and detailed drawings shall include a final estimate of cost. If the final estimate exceeds by more than 10 per cent the estimate named in the preliminary report of the district engineer, the final surveys, plans, specifications, and detailed drawings shall not be approved by the board of directors until the increase in estimated costs is approved by the board of supervisors of each county comprising the district, and by the Director of Transportation if any contribution is to be made by the state.

SEC. 117. Section 25233 of the Streets and Highways Code is amended to read:

25233. Upon the adoption of the final surveys, plans, specifications, and detailed drawings by the board of directors, a certified copy thereof shall be transmitted to the Director of Transportation for his approval.

SEC. 118. Section 25281 of the Streets and Highways Code is amended to read:

25281. If it is decided that any money authorized to be expended from the State Treasury shall be expended as required by Section 7 of Article XVI of the California Constitution, the Director of Transportation shall have the exclusive management and control of the expenditure, if the boards of supervisors of the several counties concerned assent to the relinquishment and transfer of such

management and control. However, the Director of Transportation may delegate his powers to the board of directors of the district. The board of directors of the district may vest, in the Director of Transportation, authority to supervise all or part of the work of improvement.

SEC. 119. Section 25320 of the Streets and Highways Code is amended to read:

25320. Upon the completion of the improvement of any portion of any highway by the district, the board of directors may, and on the completion of the whole of any highway by the district, the board of directors shall, adopt a resolution declaring such completion and transmit a copy of the resolution to the board of supervisors of the county or counties in which the completed improvement is situated.

If the completed improvement, or any portion thereof, is situated within a city, a copy of the resolution shall likewise be transmitted to the governing body of the city and, if it is a state highway, a copy of the resolution shall also be transmitted to the Director of Transportation.

SEC. 120. Section 25322 of the Streets and Highways Code is amended to read:

25322. The board of directors shall not adopt any resolution of completion until it obtains from the Director of Transportation a certificate in writing showing that the highway, or portion thereof, proposed to be surrendered to the county within which it is situated has been improved in accordance with the plans and specifications previously adopted therefor. Unless the highway, or portion thereof, has been improved under his supervision, the Director of Transportation shall not be required to furnish the certificate until the district engineer delivers his certificate to the Director of Transportation showing that the highway, or portion thereof, has been improved in accordance with the plans and specifications previously adopted.

SEC. 121. Section 26082 of the Streets and Highways Code is amended to read:

26082. Upon the receipt of a petition in writing, signed by at least 25 percent in number of the registered voters residing within the district, the California Transportation Commission shall declare the position on the commission held by the county surveyor or county engineer, as the case may be, vacant, and nominate and appoint a person to fill the vacancy who is a civil engineer and who, in the opinion of the California Transportation Commission, is qualified to serve on the commission.

SEC. 122. Section 26083 of the Streets and Highways Code is amended to read:

26083. The member appointed by the California Transportation Commission shall hold office for the term of four years from and after his appointment, and until the appointment and qualification of his successor. All appointments to fill any vacancy in the position of that member either during or at the expiration of his term of office shall

be made by the California Transportation Commission upon the receipt of written notice from the commission of the vacancy. No petition shall be necessary to authorize the appointment to fill the vacancy.

SEC. 123. Section 26115 of the Streets and Highways Code is amended to read:

26115. At its option, the commission may make application to the Department of Transportation for the exercise by the department of any powers, duties, or authority which the department may have with respect to the ownership, construction, maintenance, or improvement of any boulevard pursuant to this part, including the preparation of plans, specifications, and estimates and the handling and expenditure of district moneys for such construction, maintenance, or improvement.

Any such application to the Department of Transportation shall be made in accordance with the provisions of law defining the powers, duties, or privileges of the department in relation to such matters, and, upon the granting of any such application by the department, the commission shall have full power to carry out the terms of the application on its part.

SEC. 124. Section 27173 of the Streets and Highways Code is amended to read:

27173. The work of constructing, repairing, relocating, or otherwise providing any of the highways or approaches composed of the structures or improvements mentioned in this part, may be done by any district in cooperation with a city, county, joint highway district, or other district formed for the improvement or building of roads, or in cooperation with the state.

For the purpose of doing such work or acquiring rights-of-way therefor, the board may authorize a contract to be entered into between the district and the political subdivision or agency of the state with which it proposes to cooperate, and full power and authority is granted to such city, county, joint highway or other district, or the Department of Transportation, to enter into such contracts for cooperative work, construction, or purchase of rights-of-way, in such manner and upon such apportionment of the cost thereof as may be agreed upon between them. For this purpose, the contracting parties may designate engineers, county surveyors, or other necessary officials or employees to take charge of the particular work, and provide for the payment of the cost of the work out of funds contributed by the contracting parties. The plans and specifications for such work shall be approved by both of the contracting parties, and the work may be carried out by either one of the contracting parties as the agent of the other, or it may be carried out under the joint management of both of the contracting parties.

Any such project, or any project, undertaken by a district alone, or in cooperation with any of the agencies mentioned, may be accomplished by federal aid under such rules as may be prescribed

by the federal agencies involved.

Any such work may extend across, through, or within any city, county, joint highway district, or other district, if such work is an extension of an approach to a bridge operated by the district and connects the the bridge as a main or alternate route with State highways or other through routes leading to or from the bridge.

SEC. 125. Section 27178 of the Streets and Highways Code is amended to read:

27178. Within the district, the Department of Transportation may restrict any portion of a state highway to a particular mode of vehicular transportation during such hours as the department, upon the basis of an engineering and traffic investigation, determines such restriction would expedite the flow of traffic.

SEC. 126. Section 30003 of the Streets and Highways Code is amended to read:

30003. "Commission" means the California Transportation Commission.

SEC. 127. The heading of Article 3 (commencing with Section 30100) of Chapter 1 of Division 17 of the Streets and Highways Code is amended to read:

Article 3. General Powers and Duties of the Commission

SEC. 128. Section 30100 of the Streets and Highways Code is amended to read:

30100. Whenever, in the opinion of the commission and of the department, it is necessary or desirable to do so, the commission shall authorize and direct the department to build or acquire for, and in the name of, the state any or all of the following:

(a) Toll bridges, tubes, or other toll highway crossings across water, bays, arms of bays, straits, rivers, and streams in California, both navigable and unnavigable, or across any stream that is a boundary line between California and any other state, or toll tunnels through mountains in California.

(b) Transportation facilities of any toll bridges or toll highway crossings constructed or acquired, or to be constructed or acquired, pursuant to this chapter.

(c) Additional transportation facilities connecting or coordinated with any such toll bridge or other highway crossing or the transportation facilities thereon.

The commission may authorize and direct the department to pay for any such construction or acquisition out of any funds provided or made available by this chapter. Whenever a project consists of a tube or tunnel which will accommodate traffic served by a privately owned ferry, the commission may acquire such ferry.

SEC. 129. Section 30100.1 of the Streets and Highways Code is amended to read:

30100.1. Notwithstanding any other provision of law, the commission may include, in any issue of revenue bonds, funds

sufficient to finance the establishment of a ferry system as authorized by Section 30356, including the purchase or construction of ferry boats, wharves, docks, ferry slips, and other facilities necessary to the operation and maintenance of a ferry system. Upon determining that it is feasible to do so, the commission shall take all steps necessary to finance the establishment of ferry systems. Revenues derived from the operation of any ferry system shall be pledged as security for the payment of the bonds issued to finance the establishment of the system.

SEC. 130. Section 30100.5 of the Streets and Highways Code is amended to read:

30100.5. Notwithstanding Section 30100 or any other provision of law, no bridge or other highway crossing, shall be constructed across the San Francisco Bay by the commission, the department, or the Golden Gate Bridge, Highway and Transportation District after March 4, 1972, except to replace on a one-for-one basis such bridges or highway crossings existing on such date.

SEC. 131. Section 30101 of the Streets and Highways Code is amended to read:

30101. Except as otherwise provided in Section 30886, the commission shall fix the rates of toll and other charges for all toll bridges, tubes, or other toll highway crossings acquired or built pursuant to this chapter.

SEC. 132. Section 30101.5 of the Streets and Highways Code is amended to read:

30101.5. The commission may permit authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, responding to or returning from mutual aid calls or other emergencies, and other vehicles owned by any public agency when called upon to perform emergency work on the property of any toll bridge, tube, or other toll highway crossing, to cross toll bridges, tubes, or other toll highway crossings without paying a toll.

SEC. 133. Section 30101.6 of the Streets and Highways Code is amended to read:

30101.6. The commission shall grant toll-free passage on all toll bridges, tubes, and other toll highway crossings under its jurisdiction to members of the California Highway Patrol on duty.

Members of the California Highway Patrol, in all cases while on duty, are persons directly connected with the operation of toll bridges, tubes, and other toll highway crossings as such persons are designated in all of the bond resolutions adopted by the commission to authorize the issuance of bonds to finance the construction of toll structures.

SEC. 134. Section 30101.7 of the Streets and Highways Code is amended to read:

30101.7. (a) The commission shall grant toll free passage on all toll bridges, tubes, and other toll highway crossings under its jurisdiction to vehicles in a funeral procession of a person who died while on active duty with the armed services of the United States.

(b) The commission shall submit a claim for the loss in revenues resulting from subdivision (a) to the State Controller, who shall reimburse the commission in the amount submitted in the claim from funds appropriated by the Legislature to him for such purposes.

(c) The State Controller, in consultation with the commission, shall adopt such rules and regulations as are necessary to implement this section.

SEC. 135. Section 30102 of the Streets and Highways Code is amended to read:

30102. The commission, in establishing toll charges, shall give consideration to the cost of operating and maintaining any particular toll bridge or other toll highway crossing, including the cost of insurance, the cost of operating and maintaining any ferry established and operated pursuant to Section 30356, and the amount required annually to meet the redemption of bonds and interest payments thereon. At all times, the tolls and charges shall be fixed at rates to yield annual revenue equal to the annual operating and maintenance expenses, including insurance costs, the cost of operating and maintaining any ferry established and operated pursuant to Section 30356, and all redemption payments and interest charges of the bonds issued for any particular toll bridge or other toll highway as they fall due.

SEC. 136. Section 30104 of the Streets and Highways Code is amended to read:

30104. The commission shall prescribe the terms and conditions upon which any person, or private, public, or municipal corporation, or any district or political subdivision may do any of the following:

(a) Transport any person or property over any toll bridge or other toll highway crossing acquired or constructed, or to be acquired or constructed, or in course of construction pursuant to this chapter.

(b) Operate any transportation facilities thereon.

(c) Transport any person or property over any additional transportation facilities, constructed or acquired pursuant to this chapter, or use or operate such additional transportation facilities.

No person, or private, public, or municipal corporation, or district or political subdivision shall do any of the acts specified in subdivisions (a), (b), and (c) of this section, except in accordance with authorization or permission to do so from the commission.

SEC. 137. Section 30105 of the Streets and Highways Code is amended to read:

30105. The commission may also grant permits to and enter into contracts with steam, electric, bus, railroad, and other transportation companies, public or private, and with any municipal or public corporation, public utility district, or political subdivision for the use of any toll bridge or other toll highway crossing, and for the use of the transportation facilities and the additional transportation facilities thereof, upon such terms and conditions as are mutually agreed upon if, prior to the granting of the permit or the execution of the contract, the commission first determines that the permit or

contract is advisable or necessary for the financing of the bridge or other toll highway crossing or for the proper, necessary, or safe use of the bridge and for the best interests of the state.

SEC. 138. Section 30106 of the Streets and Highways Code is amended to read:

30106. The grant of any such permit or the execution of any such contract by the California Transportation Commission shall not relieve any transportation company or corporation subject to the jurisdiction of the Public Utilities Commission from the duty of obtaining any certificate of public convenience and necessity for the conduct of a transportation service over any toll bridge or other highway crossing as required by law, or from the duty of complying with every lawful order, rule, or regulation of the Public Utilities Commission respecting such transportation service.

SEC. 139. Section 30107 of the Streets and Highways Code is amended to read:

30107. In any such contract or permit, the commission may authorize the transportation company or corporation, district, or political subdivision providing transportation to use the transportation facilities and additional transportation facilities of the commission upon such terms and in such manner as the commission deems proper. Such use may be authorized without restriction to the particular toll bridge or other highway crossing to which the transportation facilities and additional transportation facilities relate, but the use authorized shall be for or in aid of the transportation of persons or property over that bridge or other highway crossing or the approaches thereto.

SEC. 140. Section 30108 of the Streets and Highways Code is amended to read:

30108. Every contract which the commission enters into with, and every permit which it grants to, any person, or private, public, or municipal corporation, any district or political subdivision, for the transportation of persons or property by such person, or private, public, or municipal corporation, or district or political subdivision over any toll bridge or other toll highway crossing, or over the additional transportation facilities of any toll bridge or other toll highway crossing, shall contain a provision that no privilege or contract rights acquired by such person, private, public, or municipal corporation, district, or political subdivision, with regard to the transport of persons or property over any such toll bridge or with regard to additional transportation facilities, shall be an element of value in any subsequent condemnation proceeding against any such person, private, public, or municipal corporation, district, or political subdivision.

SEC. 141. Section 30110 of the Streets and Highways Code is amended to read:

30110. The commission, in behalf of the State, by itself or its agents or assigns, or through the department or its agents or assigns, may operate the transportation facilities of any toll bridge or other

highway crossing constructed or acquired pursuant to this chapter and the additional transportation facilities authorized to be constructed or acquired pursuant to this chapter. This power may be exercised upon default of any party contracting under Section 30104 or 30105 with the commission for the transportation of persons or property for hire over any toll bridge or other toll highway crossing, or upon the termination or cessation of any such contract or agreement, or in the absence of such contract or agreement.

Prior to the operation of any such transportation facilities by the commission or its agents or assigns or by the department or its agents or assigns, the commission shall first determine that the operation thereof is advisable or necessary for the financing of the bridge or other toll highway crossing, or for the proper or necessary use of the bridge or other toll highway crossing, and is for the best interests of the State.

SEC. 142. Section 30111 of the Streets and Highways Code is amended to read:

30111. The commission, the officials thereof, and all state officials may do such acts and make such agreements not inconsistent with law as are necessary or desirable in connection with the duties and powers conferred upon them respectively by law regarding the construction, maintenance, operation, and insurance of toll bridges or other highway crossings, and the transportation facilities thereof or thereto, or the safeguarding of the funds and revenues required for such purposes and the payment of the indebtedness incurred therefor.

SEC. 143. Section 30112 of the Streets and Highways Code is amended to read:

30112. The department and commission shall consider the inclusion of bicycle and pedestrian facilities on each new toll bridge designed and constructed pursuant to this division, including appropriate connections thereto. Such facilities shall be included on each such new bridge if the commission finds that they are economically and physically feasible. If the commission finds such facilities are not feasible, it shall report its findings to the Legislature at least one year prior to commencement of construction, including the facts on which the commission based its decision.

The cost of the bicycle and pedestrian facilities on the approaches to the toll bridge shall be paid by the commission as a part of the cost of construction of the toll bridge, unless the cost of such facilities is to be paid by a governmental agency other than a state agency. The feasibility study for such facilities shall reflect whether the commission or a governmental agency other than a state agency shall pay the cost of such facilities.

The Legislature finds that the increased use of the bicycle is a desirable activity which should be encouraged by the improvement of access available to that mode of transportation. It is the intent of the Legislature, in enacting this section, to provide for the use of toll bridges by both pedestrians and bicycles, wherever this is

economically and physically feasible.

SEC. 144. The heading of Article 4 (commencing with Section 30150) of Chapter 1 of Division 17 of the Streets and Highways Code is amended to read:

Article 4. General Powers and Duties of the Department of Transportation

SEC. 145. Section 30150 of the Streets and Highways Code is amended to read:

30150. The department shall have full charge of the acquisition and construction of all toll bridges and other toll highway crossings, transportation facilities, and additional transportation facilities authorized by the commission, the operation and maintenance thereof, and the collection of tolls thereon. The director shall proceed with the construction of the toll bridges and other highway crossings, transportation facilities, and additional transportation facilities immediately upon funds for such work being made available, and shall prosecute the work to completion as rapidly as possible.

SEC. 146. Section 30150.5 of the Streets and Highways Code is amended to read:

30150.5. The department, at the time it submits any request, or develops and submits any program, to the California Transportation Commission for capital expenditure or improvement on any toll bridge under the jurisdiction of the California Transportation Commission and located within the region under the jurisdiction of the Metropolitan Transportation Commission, shall transmit a copy of the request or program, as the case may be, to the Metropolitan Transportation Commission, which shall review the request or program and transmit its findings and recommendations thereon to the Secretary of the Business and Transportation Agency for consideration.

SEC. 147. Section 30151 of the Streets and Highways Code is amended to read:

30151. No part of any additional transportation facilities authorized, however, shall be constructed or operated by the commission, or by any person or public or private corporation, within any county or city, unless and until the route thereof within the county or city has been approved by the board of supervisors, city council, or other legislative body thereof, as the case may be, notwithstanding any other provision in this chapter.

SEC. 148. Section 30155 of the Streets and Highways Code is amended to read:

30155. The commission may authorize the department to acquire or construct tubes, tunnels, subways, underpasses, or overpasses either in connection with bridges or as separate highway crossings whenever the department deems such acquisition or construction advisable. All of the provisions of this chapter shall be fully applicable

to the tubes, tunnels, subways, underpasses, or overpasses, the acquisition and construction of which is so authorized, and they shall be included within the word "bridge."

SEC. 149. Section 30157 of the Streets and Highways Code is amended to read:

30157. The commission and the department shall keep full, complete, and separate accounts of each toll bridge or other crossing, and annually shall prepare balance sheets and income and profit and loss statements showing the financial condition of each toll bridge or other highway crossing. The statements shall be open to the inspection of holders of bonds issued by the commission at all reasonable times.

SEC. 150. Section 30200 of the Streets and Highways Code is amended to read:

30200. Whenever the department determines that it is for the best interests of the public highways in the state that a new toll bridge or other highway crossing be constructed and operated by the state, the department shall submit its recommendation to that effect to the commission, together with preliminary estimates of the cost of construction thereof, an estimate of the amount required to be raised for that purpose by the issuance of revenue bonds, and a statement of the probable amount of money, property, materials, or labor to be contributed from other sources in aid of the construction.

If a majority of the members of the commission concurs in the recommendation of the department, the commission shall adopt a resolution declaring that public interest and necessity require the construction of the toll bridge or other highway crossing and authorizing the issuance of revenue bonds for the purpose of obtaining funds in an amount not in excess of that estimated to be required for the construction thereof.

SEC. 151. Section 30201 of the Streets and Highways Code is amended to read:

30201. If the department determines that it is for the best interests of the public highways in the state that a toll bridge or other highway crossing be acquired by negotiation and purchase or through eminent domain and be operated by the state, the department shall submit its recommendation to that effect to the commission, together with preliminary estimates of the cost of acquisition thereof, a preliminary estimate of the amount required to be raised for that purpose by the issuance of revenue bonds, and a preliminary estimate of the toll charges necessary to pay, in addition to all operating and maintenance expenses, the interest and redemption of the revenue bonds proposed to be issued.

If a majority of the members of the commission concurs in the recommendation of the department, the authority shall adopt a resolution declaring that public interest and necessity require the acquisition of the toll bridge or other highway crossing and authorizing the issuance of revenue bonds for the purposes of the acquisition at such times and in such amounts as it deems best. The

commission shall, however, before selling any bonds issued for the purpose of acquiring any particular bridge, highway crossing, or other property, by resolution specify the maximum amount of bonds to be issued for the purposes of such acquisition, and bonds shall not be issued or sold in an amount exceeding the specified maximum amount.

SEC. 152. Section 30201.5 of the Streets and Highways Code is amended to read:

30201.5. Where one or more toll bridges or other highway crossings are to be acquired as provided in Section 30201, and expenditures to rehabilitate or improve the toll bridge or bridges or other highway crossing or crossings, or approaches thereto, or for cost of operation, are necessary, provision for the amounts to be so expended may be made in any issue of revenue bonds or for the use of toll revenues therefor, as may be provided in any bond indenture or resolution. The commission shall continue to collect tolls until all advancements for any of the purposes from any state funds have been repaid into the State Treasury to the credit of the funds from which advanced.

SEC. 153. Section 30202 of the Streets and Highways Code is amended to read:

30202. Whenever in connection with any toll bridge or other highway crossing constructed or acquired, or to be constructed or acquired, or in the course of construction or acquisition pursuant to this chapter, the department determines that it is advisable, necessary, or convenient to provide for the transportation of persons or property to and over the toll bridge or other highway crossing, the department shall submit its recommendation to that effect to the commission, together with preliminary estimates of the cost of providing for transportation facilities therefor, an estimate of any funds of the commission and of the department available for that purpose, an estimate of the amount required to be raised for that purpose by the issuance of revenue bonds, and a statement of the probable amount of money, property, materials, or labor to be contributed from other sources in aid of the acquisition or construction.

If a majority of the members of the commission concurs in the recommendation of the department, the commission shall adopt a resolution declaring that public interest and necessity require the providing of transportation facilities to and over the toll bridge or other highway crossing and the acquisition by agreement, eminent domain, or otherwise of the transportation facilities, and authorizing the issuance of revenue bonds for the purpose of obtaining funds in an amount not in excess of that estimated to be required for that purpose, or for that purpose and the acquisition or construction of any toll bridge or other highway crossing to which the transportation facilities relate if, pursuant to this chapter, the cost of acquisition or construction of the toll bridge or other highway crossing and of the transportation facilities is included within the issue of revenue bonds.

SEC. 154. Section 30203 of the Streets and Highways Code is amended to read:

30203. Whenever in connection with the transportation facilities of any toll bridge or other toll highway crossing constructed or acquired, or to be constructed or acquired, or in the course of construction or acquisition pursuant to this chapter, the department determines that it is advisable, necessary, or convenient, in connection with the transportation of persons or property to and over the toll bridge or other highway crossing, to construct or acquire additional transportation facilities to connect or be coordinated with the transportation facilities of the toll bridge or other highway crossing, so as to provide a system of transportation for persons or property to and from the toll bridge or other highway crossing and the area within 50 miles from either end of the toll bridge or other highway crossing, the department shall submit its recommendations to that effect to the commission, together with preliminary estimates of the cost of providing for the additional transportation facilities, and estimate of any funds of the commission and of the department available for that purpose, an estimate of the amount required to be raised for that purpose by the issuance of revenue bonds, and a statement of the probable amount of money, property, materials, or labor to be contributed from other sources in aid of the acquisition or construction.

If a majority of the members of the commission concurs in the recommendations of the department, the commission shall adopt a resolution declaring that public interest and necessity require the providing of additional transportation facilities to connect or be coordinated with the transportation facilities of the toll bridge or other highway crossing, and the acquisition, by agreement, eminent domain, or otherwise of the additional transportation facilities, and authorizing the issuance of revenue bonds for the purpose of obtaining funds in an amount not in excess of that estimated to be required for that purpose, or for that purpose and the acquisition or construction of any toll bridge or other highway crossing and the transportation facilities thereof with which the additional transportation facilities are to connect or be coordinated, if pursuant to this chapter the cost of acquisition or construction of the toll bridge or other highway crossing and the transportation facilities thereof and the additional transportation facilities is included within the issue of revenue bonds.

SEC. 155. Section 30204.1 of the Streets and Highways Code is amended to read:

30204.1. Whenever the state has acquired or constructed a toll bridge over any of the waters specified in subdivision (a) of Section 30100 and whenever the department determines that an additional toll bridge or other highway crossing over such waters is required and that it is for the best interests of the public highways in the state that the additional toll bridge or other highway crossing be constructed and operated by the state, the department shall submit

its recommendations to that effect to the commission, together with preliminary estimates of the cost of construction of the additional toll bridge or other highway crossing and an estimate of the amount required to be raised for the purpose and for the purpose of retiring any outstanding bonds secured by a pledge of the tolls and revenues from the existing toll bridge by the issuance of revenue bonds, and a statement of the probable amount of money, property, materials, or labor to be contributed from the other sources in aid of such construction.

If a majority of the members of the commission concur in the recommendation of the department, the commission shall adopt a resolution declaring that public interest and necessity require the construction of the additional toll bridge or other highway crossing and authorizing the issuance of revenue bonds for the purpose of obtaining funds in the amount estimated to be required for such construction and for the retiring of any and all outstanding bonds secured by a pledge of the tolls and revenues of the existing bridge, including, but not limited to, all expenses incident to the calling, retirement, or payment of any outstanding bonds, together with, among other things, the difference in amount between the par value of the outstanding bonds and any amount less than par for which the additional revenue bonds may be sold, and also any amount necessary to be made available for the payment of interest upon the additional revenue bonds from the date of sale to the date of maturity or payment of the outstanding bonds, to be redeemed out of the proceeds of the sale or the date upon which the outstanding bonds to be redeemed will be paid pursuant to call or by agreement with the holders, and also the premium, if any, necessary to be paid in order to call or retire any outstanding bonds including all amounts necessary to be deposited with the fiscal agent for the outstanding bonds to enable the fiscal agent to hold in trust an amount fully sufficient for the payment and retirement of all the outstanding bonds, including the interest thereon to the earliest date upon which the fiscal agent may legally call and redeem all outstanding bonds pursuant to the provisions of any resolution under which the outstanding bonds are issued.

Out of the proceeds of the sale of the additional revenue bonds, the commission may deposit, with the fiscal agent for any issue of outstanding bonds in advance of the earliest practicable call date of the outstanding bonds, amounts fully sufficient for the payment, retirement, and redemption of the outstanding bonds to be held by the fiscal agent in trust for such redemption at the earliest practicable call date upon which the outstanding bonds may be redeemed.

SEC. 156. Section 30204.4 of the Streets and Highways Code is amended to read:

30204.4. All such bonds so authorized shall be issued in the name of the commission and shall constitute obligations only of the commission and shall be identified as toll bridge bonds and shall

contain a recital on the face thereof that the payment or redemption of the bonds and the payment of the interest thereon is secured by a direct, concurrent, and exclusive charge and lien upon the tolls and other revenues of any nature whatever received from the operation of the existing bridge and from the operation of the particular additional toll bridge or other highway crossing for the acquisition or construction of which the bonds are issued and that neither the payment of the principal, or any part thereof, or any interest thereon constitutes a debt, liability, or obligation of the state.

SEC. 157. Section 30205 of the Streets and Highways Code is amended to read:

30205. The bonds issued for the purpose of obtaining funds to provide for such transportation facilities may be issued as a separate issue or as part of an issue to provide for the acquisition or construction of any toll bridge or other highway crossing, as the commission may direct.

SEC. 158. Section 30206 of the Streets and Highways Code is amended to read:

30206. The bonds issued for the purpose of obtaining funds to provide for additional transportation facilities may be issued as a separate issue or as part of the issue to provide for the acquisition or construction of any toll bridge or other highway crossing, and the transportation facilities thereof, with which the additional transportation facilities will connect or be coordinated, as the commission may direct.

SEC. 159. Section 30207 of the Streets and Highways Code is amended to read:

30207. All bonds authorized pursuant to this chapter shall be issued in the name of the commission and shall constitute obligations of the commission only. The bonds shall be identified as toll bridge bonds and shall contain a recital on the face thereof that the payment or redemption of the bonds and the payment of the interest thereon is secured by a direct and exclusive charge and lien upon the tolls and other revenues of any nature whatever received from the operation of the particular toll bridge or other highway crossing, transportation facilities, or additional transportation facilities for the acquisition or construction of which the bonds are issued, and that neither the payment of the principal, or any part thereof, or any interest thereon constitutes a debt, liability, or obligation of the state.

SEC. 160. Section 30208 of the Streets and Highways Code is amended to read:

30208. The commission shall determine the form, conditions, and denominations of all bonds, the dates which the bonds to be sold shall bear, and the interest rate thereon which shall not exceed 8 percent per annum. The rate of interest need not be uniform for all bonds of the same authorized issue. Principal and interest of the bonds shall be payable at such places as are fixed and determined by the commission. The bonds may contain provisions for registration as to principal only and as to both principal and interest. The bonds shall

be issued in coupon form with interest payable at such times as are determined by the commission, and shall mature at such times and in such amounts as the commission prescribes.

SEC. 161. Section 30209 of the Streets and Highways Code is amended to read:

30209. The commission may provide for the retirement of the bonds at any time or times prior to their maturity, in such manner and upon payment of such premiums as may be fixed and determined in the proceedings providing for the issuance of the bonds and referred to therein.

SEC. 162. Section 30211 of the Streets and Highways Code is amended to read:

30211. All revenue bonds authorized pursuant to this chapter may be issued and sold by the commission from time to time and in such amounts as the commission deems necessary to provide sufficient funds for the purposes for which the bonds were authorized, including the payment of interest on the bonds during the period of actual construction and for a period of six months thereafter, and the proceeds thereof are available for those purposes.

SEC. 163. Section 30213 of the Streets and Highways Code is amended to read:

30213. Successive issues of bonds within the limits of the original authorization for the issuance of bonds for the acquisition or construction of any particular toll bridge or other highway crossing, transportation facilities, or additional transportation facilities shall have equal preference with respect to the redemption thereof and the payment of interest thereon, but the commission may fix different maturity dates, serially or otherwise, for successive issues under any one original authorization.

SEC. 164. Section 30214 of the Streets and Highways Code is amended to read:

30214. All bonds issued and sold pursuant to this chapter shall be sold on sealed proposals to the highest and best bidder after such advertising for bids as the commission deems proper. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale under such terms and conditions as it deems most advantageous to its own interest, but the bonds shall not be sold at a price below that of the best bid which was rejected.

SEC. 165. Section 30216 of the Streets and Highways Code is amended to read:

30216. The purchase price of all bonds issued pursuant to this chapter shall be paid to the State Treasurer for the account of the commission.

SEC. 166. Section 30217 of the Streets and Highways Code is amended to read:

30217. The commission may include, in the proceedings authorizing the issuance of bonds, any provisions not inconsistent with this chapter which limit, restrict, or regulate the holding,

deposit, investment, and application of money consisting of the proceeds from the sale of the bonds or the tolls and other revenues received from the operation of the toll bridge or other highway crossings, transportation facilities, or additional transportation facilities for the acquisition or construction of which the bonds may be issued. The provisions shall constitute a contract with the holders of the bonds and be binding upon the commission as long as the bonds are outstanding.

SEC. 167. Section 30218 of the Streets and Highways Code is amended to read:

30218. The commission may provide, in the proceedings authorizing the issuance of bonds, for the setting up of one or more reserve funds out of the proceeds of the bonds or out of the tolls and other revenues not needed for the payment of interest on the bonds and the principal of the bonds as they currently mature, and for the preservation and continuance thereof in a manner to be provided therein, and may also require the immediate application of all surplus money in any such toll revenue fund to the retirement, by call or purchase, of the bonds prior to maturity in such manner and upon such terms and the payment of such premiums as the commission deems advisable.

SEC. 168. Section 30219 of the Streets and Highways Code is amended to read:

30219. The commission may provide in the proceedings authorizing the issuance of bonds, or may otherwise agree with the purchasers of bonds, regarding the deposit of all money constituting the acquisition and construction fund and the toll revenue fund, and may provide for the deposit of such money at such times, with such depositaries or paying agents, and upon the furnishing of such security as may meet with the approval of the purchasers of the bonds. The depositaries and security provided for or agreed upon, however, shall be qualified and eligible in accordance with law.

SEC. 169. Section 30220 of the Streets and Highways Code is amended to read:

30220. The commission may provide, in the proceedings authorizing the issuance of bonds, for the carrying of insurance as authorized by this chapter. The purchase and carrying of such insurance shall thereupon be obligatory upon the commission and be paid for out of the toll revenue fund as may be specified in the proceedings.

SEC. 170. Section 30221 of the Streets and Highways Code is amended to read:

30221. Whenever any bonds are to be isssued pursuant to this chapter, the commission, from time to time, upon such terms and conditions in all respects as it approves and consistent with this chapter, may enter into indentures or agreements containing any or all of the following provisions:

(a) Providing for the amount, form, maturities, registration, and transfer and interchange of the bonds and coupons and the terms

and conditions upon which they shall be issued, sold, paid, retired, funded, and refunded.

(b) Providing for a sinking fund for the bonds and designating a trustee or trustees, which shall be a bank or trust company or banks or trust companies duly qualified to do business in this state, to receive and disburse the revenues of the toll bridge works or improvement.

(c) Providing that, as long as any of such bonds are outstanding, there shall be raised in each year by tolls not less than the minimum amounts required for interest, sinking fund, redemption, and reserve requirements for the bonds, in addition to the amount needed for current operating and maintenance expenses, including insurance costs, required to be paid from such sources.

(d) Such other provisions for the protection of the holders of the bonds as the commission approves, including, without limiting subdivision (a), (b), or (c), provisions that, in the event of refusal or failure to comply with any provision of this chapter or any other applicable law, or of any agreement made with the holders of the bonds or of any issue thereof, the holders of a stated percentage, in aggregate, of the principal amount of the bonds, or of such issue thereof, as the case may be, then outstanding may, in accordance with such appropriate procedure as is provided in the agreement or indenture, appoint a trustee to represent all the holders of the bonds, or all the holders of the issue thereof, as the case may be, in the matter of exercising and prosecuting on their behalf such rights and remedies as are available to them under the law.

The commission shall, in its absolute discretion, fix the terms and conditions upon which the trustee or trustees shall receive, hold, and disburse the revenues and may prescribe the powers and duties of the trustee or trustees.

SEC. 171. Section 30222 of the Streets and Highways Code is amended to read:

30222. All benefits conferred or obligations imposed by this chapter or by any other law with respect to making provision for the payment, whether from tolls or other revenues received from the use and operation of any particular toll bridge or other highway crossing or from other sources, of expenses in connection with the operation, maintenance, and insurance of, and the construction of approaches to, any such toll bridge or other highway crossing, shall, notwithstanding the retirement or discharge of any or all of the bonds issued by the commission for the purpose of constructing that particular bridge or other highway crossing, inure to and continue for the benefit of any other bonds issued pursuant to this chapter as additional to, or funding, or refunding the bonds originally issued.

SEC. 172. Section 30223 of the Streets and Highways Code is amended to read:

30223. The commission may contract loans and borrow money through the sale of bonds of the same character as those authorized pursuant to this chapter, from the United States or any of its

departments, agencies, or instrumentalities upon such conditions and terms as may be agreed to. The bonds shall be subject to all the provisions of this chapter, except the requirement that bonds be first offered at public sale pursuant to advertisement.

SEC. 173. Section 30224 of the Streets and Highways Code is amended to read:

30224. If a bond issue for the acquisition or construction of a toll bridge or other highway crossing is authorized and sold, in whole or in part, and the commission and director deem it advisable and advantageous to enlarge or extend the toll bridge or other highway crossing or to change the structure or design thereof in order to afford new or greater facilities for any type or class of traffic, the commission may issue additional bonds for the purpose of enlarging or extending the toll bridge or other highway crossing or changing the structure or design thereof in order to afford such new or greater facilities.

The additional bonds shall be issued only if the surrender and cancellation of all outstanding bonds issued for the acquisition or construction of the toll bridge or other highway crossing as originally designed can be assured or obtained by call or by consent of the holders thereof.

The additional bonds shall not constitute a debt or obligation of the state, but shall be bonds of the commission of the same character and payable from the same funds as other bonds authorized pursuant to this chapter. The pledge of the tolls and other revenues to be received from the operation of the toll bridge or other highway crossing to the payment of outstanding bonds shall not be lessened, diminished, or affected in any way by the issuance of the additional bonds.

SEC. 174. Section 30225 of the Streets and Highways Code is amended to read:

30225. If the outstanding bonds issued for the acquisition or construction of the toll bridge or other highway crossing as originally designed are, at the time of issuance of the additional bonds, by their terms subject to retirement before maturity, or if the holders consent to the retirement of such bonds, the commission may include, in the issue of bonds to be sold for the purpose of enlarging or extending the toll bridge or other highway crossing or changing the design thereof, an amount of bonds sufficient to produce funds with which to retire the outstanding bonds according to their terms and may also include bonds in a principal amount sufficient to provide funds for any or all of the purposes specified in Section 30231, or otherwise provide for the use and application of any available funds for any or all of the purposes.

Before any additional bonds are delivered, the commission shall first duly call the outstanding bonds for redemption in accordance with their terms and conditions or obtain the consent of the holders thereof to their retirement.

SEC. 175. Section 30228 of the Streets and Highways Code is

amended to read:

30228. Whenever bonds of any kind have been issued and are outstanding pursuant to this chapter, the commission may, from time to time or at one time, issue and sell or exchange funding or refunding bonds for the purpose of retiring, paying, funding, or refunding either all or such part of the outstanding bonds or of one or more issues or series thereof, as it deems advisable.

The funding or refunding bonds shall be issued and delivered only when the issue or series of bonds to be funded or refunded have matured, are about to mature, are subject to retirement before maturity or, if the outstanding bonds are not subject to retirement, the retirement thereof has been assured or obtained by consent of the holders thereof. Funding or refunding bonds may be delivered wholly or in part in exchange for outstanding bonds to be funded or refunded thereby, if the holders of the outstanding bonds to be exchanged consent thereto.

SEC. 176. Section 30229 of the Streets and Highways Code is amended to read:

30229. Funding or refunding bonds shall not constitute a debt or obligation of the state, but shall be bonds of the commission of the same character and payable from the same funds as other bonds authorized pursuant to this chapter. Any and all reserve or other funds applicable to the payment of the bonds funded or refunded, may, if so directed by the commission, be transferred to any reserve or other funds provided with respect to the funding or refunding bonds. The pledge of the tolls and other revenues to be received from the operation of the toll bridge or other highway crossing to the payment of outstanding bonds shall not be lessened, diminished, or affected in any way by the issuance of the funding or refunding bonds.

SEC 177. Section 30232 of the Streets and Highways Code is amended to read:

30232. In connection with any issue of bonds pursuant to this chapter, the commission may provide for the issuance of bonds for the enlargement or extension of any toll bridge or other highway crossing, or to change the structure or design of the toll bridge or other highway crossing in order to afford new or greater facilities for any type or class of traffic, including railroad or interurban facilities, or to reimburse the commission for expenditures made in connection with any of these purposes.

SEC. 178. Section 30235 of the Streets and Highways Code is amended to read:

30235. Bonds issued pursuant to this chapter shall not constitute or be a debt, liability, or obligation of the state. The payment of both principal and interest of all bonds shall be secured only by the tolls or other revenues collected from the particular toll bridge or other highway crossing for which the bonds were issued, other revenues and interest thereon, and sinking funds created therefrom received by the commission, and shall be paid from such tolls or revenues or

from such other contributions or appropriations as may be made available pursuant to this chapter.

SEC. 179. Section 30237 of the Streets and Highways Code is amended to read:

30237. While any bonds issued by the commission remain outstanding, the powers, duties, or existence of the commission, of the director, or of any other official or agency of the state shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of the bonds.

SEC. 180. Section 30238 of the Streets and Highways Code is amended to read:

30238. The holder of any bond may, by mandamus or other appropriate proceeding, compel the performance of any of the duties imposed upon any state department, official, or employee or imposed upon the commission or its officers, agents, and employees in connection with the construction, maintenance, operation, and insurance of any bridge, in connection with the collection, deposit, investment, application, and disbursement of all tolls and other revenues derived from the operation and use of any bridge, and in connection with the deposit, investment, and disbursement of the proceeds received from the sale of bonds The enumeration of rights and remedies in this chapter shall not exclude the exercise or prosecution of any other rights or remedies by the holders of such bonds.

SEC. 181. Section 30241 of the Streets and Highways Code is amended to read:

30241. All bonds which have been issued by the commission pursuant to this chapter or its predecessor, and which have been first certified by the Superintendent of Banks, are legal investments for all trust funds, for the funds of all insurance companies, commercial and savings banks, and trust companies, and for state school funds.

SEC. 182. Section 30242 of the Streets and Highways Code is amended to read:

30242. Any money or funds which may by law be invested in bonds of the state, cities, counties, or school districts in the state may be invested in the bonds issued by the commission.

SEC. 183. Section 30243 of the Streets and Highways Code is amended to read:

30243. Whenever any bonds of the state, or of any city, county, or school district in the state, may by law be used as security for the performance of any act or the deposit of any public money, the bonds issued by the commission may be so used.

SEC. 184. Section 30300 of the Streets and Highways Code is amended to read:

30300. The proceeds from the sale of all bonds authorized pursuant to this chapter shall be paid to the State Treasurer for the credit of the commission and forthwith deposited as demand deposits in such depositary or depositaries as are authorized by law to receive deposits of state funds, to the credit of a fund to be designated as the

acquisition and construction fund of the particular toll bridge or other highway crossing, transportation facilities, or additional transportation facilities for which the bonds were issued and sold. The fund shall, at all times, be kept segregated and set apart from all other funds.

SEC. 185. Section 30301 of the Streets and Highways Code is amended to read:

30301. The proceeds from the sale of the bonds shall be paid out or disbursed solely for the acquisition or construction of the particular toll bridge or other highway crossing, transportation facilities, or additional transportation facilities, the acquisition of the necessary lands and easements therefor, and the payment of interest on the bonds during the period of actual construction and for a period of six months thereafter, only as the need therefor arises. The commission may agree with the purchaser of the bonds upon any conditions or limitations restricting the disbursement of such funds which are deemed advisable for the purpose of assuring the proper application of the funds.

SEC. 186. Section 30302 of the Streets and Highways Code is amended to read:

30302. All money in the particular acquisition and construction fund not required to meet current acquisition or construction costs of the toll bridge or other highway crossing, transportation facilities, or additional transportation facilities for which the bonds were issued and sold, and all funds constituting surplus revenues which are not immediately needed for the particular object or purpose to which they are required to be applied or to which they are pledged, shall be invested in bonds and obligations eligible for investment of surplus state money.

The commission may provide, in the proceedings authorizing the issuance of the bonds, that the investment of such money shall be made only in particular bonds and obligations within the classifications eligible for such investment, and such provisions shall be binding upon the commission and all officials having anything to do with the investment.

SEC. 187. Section 30303 of the Streets and Highways Code is amended to read:

30303. Any surplus which exists in the particular acquisition and construction fund shall be applied to the retirement, by purchase or call, of bonds issued for the acquisition or construction of the particular toll bridge or other highway crossing, transportation facilities, or additional transportation facilities. If the bonds cannot be purchased at a price satisfactory to the commission and are not by their terms callable prior to maturity, the surplus shall be paid into the fund applicable to the payment of principal and interest of the bonds and shall be used for that purpose.

The proceedings authorizing the issuance of bonds may provide limitations and conditions upon the time and manner of applying the surplus to the purchase and call of outstanding bonds and the terms

upon which they shall be purchased or called, and such limitations and conditions shall be followed and observed in the application and use of the surplus.

All bonds retired by purchase or call shall be immediately canceled.

SEC. 188. Section 30310 of the Streets and Highways Code is amended to read:

30310. Notwithstanding any other provision in this chapter, the proceeds received from the sale of bonds and the tolls or other revenues received from the operation of any particular toll bridge or other highway crossings, transportation facilities, or additional transportation facilities may be used to defray any expenses incurred by the commission in connection with and incidental to the issuance and sale of bonds for the acquisition or construction of the particular toll bridge or other highway crossings, transportation facilities, or additional transportation facilities, including expenses for the preparation of surveys and estimates and the making of inspections and examinations as may be required by the purchasers of the bonds, except that the proceedings authorizing the issuance of the bonds may contain appropriate provisions governing the use and application of the bond proceeds and toll or other revenues for the purposes specified in this section.

SEC. 189. Section 30313 of the Streets and Highways Code is amended to read:

30313. The permanent revolving fund of fifty thousand dollars ($50,000) appropriated from the State Highway Account available for the widening, resurfacing, and reconstruction of state highways for the group of counties designated as Group No. 1 in Section 187 is continued in existence for the use and support of the commission in carrying out this chapter. As specific toll bridge acquisition and construction or toll revenue funds become available, expenditures previously made by the commission from the permanent revolving fund shall be returned to that account by the State Controller's warrant duly drawn for that purpose.

SEC. 190. Section 30350 of the Streets and Highways Code is amended to read:

30350. As long as any of the bonds issued pursuant to this chapter for the acquisition, construction, enlargement, extension, or change in design or structure of any toll bridge or other highway crossing are outstanding and unpaid, there shall not be erected, constructed, or maintained any other bridge, subway, tunnel, or other crossing over, under, through, or across the waters over which such bridge or other highway crossing is located or constructed, connecting, or adjoining directly or indirectly the lands or extensions thereof or abutments thereon on both sides of the waters spanned or crossed by such bridge or other highway crossing within a distance of 10 miles from either side of such bridge or highway crossing, excepting bridges or other highway crossings actually in existence and being maintained, or for which there was outstanding an existing and lawfully issued

franchise, at the time of the acquisition or location of the toll bridge or other highway crossing and prior to the time of the authorization of the revenue bonds.

Where a distance of less than 10 miles has been specified in any bond resolution containing the obligations of the commission in connection with any bonds previously issued, the department and the commission may construct new bridges or other highway crossings within less than 10 miles of the bridge or other highway crossing for which bonds are outstanding, but the provisions of any bond resolution adopted, prior to January 1, 1955, or similar provisions in any bond resolution thereafter adopted, in connection with the issuance of such bonds shall be observed.

SEC. 191. Section 30356 of the Streets and Highways Code is amended to read:

30356. The limitations and provisions of this article do not apply to any ferry authorized or permitted by the California Transportation Commission to be operated and maintained across the waters of the bay between the City and County of San Francisco and the City of Alameda or to any ferry across San Diego Bay or across San Francisco Bay in the general vicinity of the San Francisco-Oakland Bay Bridge established by the commission and operated and maintained by the commission or the department; provided, however, that, before any ferry may be established by the commission across the waters of San Francisco Bay, the commission shall first obtain the approval of the Metropolitan Transportation Commission.

The provisions and limitations of this article do not prevent the operation of any ferry or other similar means of crossing authorized or permitted by the California Transportation Commission during such period of time as any toll bridge or other highway crossing is obstructed to traffic because of accident thereto or repair thereof, or is for any reason unable to fully accommodate traffic.

SEC. 192. Section 30400 of the Streets and Highways Code is amended to read:

30400. The department may acquire by gift, purchase, or eminent domain proceedings any bridge, transportation facilities, or additional transportation facilities, and any franchise, rights, privileges, easements, or other property either real or personal appurtenant thereto, when the acquisition or construction of any toll bridge or other toll highway crossing, transportation facilities, or additional transportation facilities is authorized by the commission.

SEC. 193. Section 30408 of the Streets and Highways Code is amended to read:

30408. If any property belonging to any county, city, public or municipal corporation, district, or political subdivision of the state is taken for the acquisition or construction of any bridge or other toll highway crossing, or the transportation facilities or additional transportation facilities thereof or thereto, or if any such property is injured or damaged by such acquisition or construction, and the

payment of compensation therefor is necessary, proper, and necessary, compensation therefor as is agreed upon may be paid by the commission to the particular county, city, public or municipal corporation, district, or political subdivision of the state owning or in charge of such property, or the commission may direct that eminent domain proceedings be brought pursuant to this article for the determination of such compensation, including the determination of the interest of any such county, city, public or municipal corporation, district, or political subdivision in such property and the necessity for the payment of such compensation.

SEC. 194. Section 30409 of the Streets and Highways Code is amended to read:

30409. In all cases where, by statute or otherwise, any right is reserved or granted to the state or any state agency to construct or maintain highways, bridges, or approaches thereto, or other highway crossings, or railroads, or transportation facilities over, through, under, on, or across any public or private property, the commission is entitled to the benefit of such reservation or grant.

SEC. 195. Section 30410 of the Streets and Highways Code is amended to read:

30410. Whenever any property acquired for any of the purposes of this chapter, whether by agreement, grant, or eminent domain, either in fee or in any lesser estate or interest, is no longer necessary for use in connection with any improvement authorized to be constructed pursuant to this chapter, or whenever a lesser interest than is owned therein is sufficient for the construction, maintenance, and operation of any improvement, or whenever it is for any other reason in the public interest to do so, the property, any part thereof, or any interest therein may be leased, sold, exchanged, or otherwise disposed of or dealt with by the director in the manner, upon such terms, and subject to such reservations as are first approved by the commission.

SEC. 196. Section 30411 of the Streets and Highways Code is amended to read:

30411. Whenever, either before or after the construction or reconstruction of streets, sidewalks, or other like facilities upon any property or interest in property acquired pursuant to this chapter, it appears desirable to dedicate the property to public use for such purpose, the director, with the approval of the commission, may dedicate or transfer the property to any county, city, or other public or municipal corporation within which it is located, subject, however, to any rights or interests necessary for the proper construction, maintenance, and operation of any bridge, highway crossing, or transportation facility which extends through, over, under, on, or across the property.

SEC. 197. Section 30450 of the Streets and Highways Code is amended to read:

30450. When any toll bridge or other highway crossing, transportation facilities, or additional transportation facilities

authorized pursuant to this chapter is being built by the department, the department and the commission, or either of them, may carry, or cause to be carried, such an amount of insurance or indemnity bond as protection against loss or damage as the commission deems proper.

SEC. 198. Section 30451 of the Streets and Highways Code is amended to read:

30451. The commission may carry insurance in such amount as it deems proper to cover any accident or destruction, in part or in whole, to any toll bridge or other highway crossing, transportation facilities, or additional transportation facilities until all bonds sold for the acquisition or construction of the toll bridge or other highway crossing, transportation facilities, or additional transportation facilities and interest accrued thereon have been fully redeemed and paid.

SEC. 199. Section 30453 of the Streets and Highways Code is amended to read:

30453. The commission may also carry insurance or indemnity bonds insuring against the loss of tolls or other revenues to be derived from any toll bridge or other highway crossing, transportation facilities, or additional transportation facilities by reason of any interruption in the use of the toll bridge or other highway crossing, transportation facilities, or additional transportation facilities from any cause whatever.

The proceeds of the insurance or indemnity bonds shall be paid into the fund into which the tolls and other revenues of the bridge or other highway crossing, transportation facilities, or additional transportation facilities so insured are required to be paid and shall be applied to the same purposes and in the same manner as other money in the fund.

The insurance or indemnity bonds may be in an amount equal to the probable tolls and other revenues to be received from the operation of the toll bridge or other highway crossing, transportation facilities, or additional transportation facilities during any period of time determined upon by the commission and fixed in its discretion, and may be paid for out of the toll revenue fund as specified in the proceedings.

SEC. 200. Section 30500 of the Streets and Highways Code is amended to read:

30500. Any city, county, district, or political subdivision of the state, upon the request of the department or of the commission, may advance or contribute money, rights-of-way, labor, materials, and other property toward the expense of building, acquiring, and maintaining the toll bridge or other highway crossing, and the transportation facilities thereof and thereto referred to in this chapter, and for preliminary surveys and the preparation of plans and estimates of cost thereof and other preliminary expenses. Appropriations for such purposes may be made from any funds available, including highway funds received from the state.

SEC. 201. Section 30502 of the Streets and Highways Code is amended to read:

30502. Money or property advanced or contributed pursuant to this article may be immediately transferred or delivered to the department or to the commission to be used for the purpose for which the advance or contribution was made.

SEC. 202. Section 30503 of the Streets and Highways Code is amended to read:

30503. The commission may enter into a binding agreement with any city, county, district, or political subdivision of the state to repay any money or the value of any rights-of-way, labor, materials, or other property advanced or contributed toward the expense of acquiring or constructing any toll bridge or other highway crossing, or the transportation facilities thereof or thereto, acquired or constructed pursuant to this chapter, but no repayment therefor shall be made until all obligations issued by the commission for the acquisition or construction of the toll bridge or other highway crossing, and the transportation facilities thereof or thereto, have been fully redeemed and paid, and then only out of the tolls and revenues received from the operation of the toll bridge or other highway crossing.

SEC. 203. Section 30505 of the Streets and Highways Code is amended to read:

30505. After all bonds issued pursuant to this chapter for the acquisition or construction of any toll bridge or other highway crossing and the transportation facilities thereof or thereto have been fully redeemed and paid, the commission may continue to collect tolls and other revenues for the use of the toll bridge or other highway crossing for the purpose of reimbursing the state for any expenditures which have been made by it in connection with the toll bridge or other highway crossing, and the transportation facilities thereof or thereto, and for the purpose of repayment to any city, county, district, or political subdivision of the state of any amount the commission has agreed to repay for money, rights-of-way, labor, materials, or other property advanced or contributed for the acquisition or construction of the toll bridge or other highway crossing or transportation facilities thereof or thereto.

SEC. 204. Section 30506 of the Streets and Highways Code is amended to read:

30506. Any city, county, incorporated bridge and highway district, or joint highway district may, by proper resolution of its governing body, petition the commission requesting the commission to authorize the acquisition or construction of any toll bridge or other toll highway crossing across any waters, bays, arms of bays, rivers, or streams wholly within, or bordering upon, or wholly without the limits of any such political subdivision or public corporation.

If the commission refuses to authorize the acquisition or construction of the proposed toll bridge or other toll highway crossing, or if the commission does not within three years from the

receipt of the petition authorize the acquisition or construction of the toll bridge or other toll highway crossing, the city, county, bridge and highway district, or joint highway district, either singly or in conjunction with other cities, counties, bridge and highway districts, or joint highway districts, may acquire or construct the toll bridge or other toll highway crossing, subject to the limitations of Article 7 (commencing with Section 30350).

SEC. 205. Section 30601 of the Streets and Highways Code is amended to read:

30601. The toll bridge and the approaches to it are a primary state highway. No law providing that state highways shall be free highways affects the power or duty of the commission to fix the rates of toll for the toll bridge or the power and duty of the department to collect the tolls so fixed by the commission for the use of the toll bridge.

SEC. 206. Section 30605 of the Streets and Highways Code is amended to read:

30605. (a) The cost of operation and insurance of the toll bridge and any additional highway crossing of San Francisco Bay constructed between the County of Alameda and the City and County of San Francisco shall be paid by the department from the tolls and revenues received from the use and operation of the toll bridge and additional highway crossing. The cost of operation and insurance of any toll bridge or other highway crossing upon which tolls are now being collected, or that may hereafter be acquired or constructed over the San Francisco Bay, shall be paid by the department from the tolls and revenues received from the use and operation thereof.

(b) The cost of maintenance (exclusive of the approaches) of the toll bridge and any additional highway crossing of San Francisco Bay constructed between the County of Alameda and the City and County of San Francisco shall be paid by the department from the tolls and revenues received from the use and operation of the toll bridge and additional highway crossing, and the cost of maintenance (exclusive of the approaches) of any toll bridge or other highway crossing on which tolls are now being collected or that may hereafter be acquired or constructed over the San Francisco Bay, shall be paid by the department from the tolls and revenues received from the use and operation thereof, except as follows:

If the terms and conditions of any bonds that are outstanding on September 9, 1953, and that are payable from the tolls are such as to require that the cost of physical maintenance of the toll bridge shall be paid from sources other than tolls and revenues from the use and operation of the toll bridge, the cost of the maintenance shall be paid by the department from money accruing and to accrue in the State Highway Account available for the widening, resurfacing, and reconstruction of state highways for the group of counties designated as Group No. 1 in Section 187, until the bonds are refunded or retired or until payment of the cost of maintenance out of tolls and revenues from the toll bridge is authorized in the manner provided in the

proceedings authorizing the issuance of the bonds. The State Highway Account shall be reimbursed by the commission for all amounts so expended with interest thereon at the rate of 1½ percent per annum to be computed on the total amount expended during any one year.

Whenever after September 9, 1953, any bonds secured by pledge of the tolls and revenues of the toll bridge are refunded or retired, in the total then outstanding, the commission shall include, in the proceedings for any new issue of bonds for such purpose, bonds in a sufficient amount to repay to the State Highway Account the amount provided by this section. If the amount is not repaid from the proceeds from the sale of bonds and all revenue bonds secured by revenues on the toll bridge are fully retired, and all other obligations secured by revenues of the toll bridge, whether by means of bond issue or other provisions of law, have been fully paid, the repayment shall be made from the tolls and revenues of the toll bridge, and the commission and the department shall fix and collect tolls on the toll bridge at a rate sufficient to include provision for such repayment until the amount required to be paid into the State Highway Account by this section has been paid thereto.

The moneys required to be repaid by this section shall be credited to the money available for construction of state highways in County Group No. 1 as specified in Section 187.

SEC. 207. Section 30607 of the Streets and Highways Code is repealed.

SEC. 208. Section 30608 of the Streets and Highways Code is amended to read:

30608. Pending the issuance and sale of bonds secured by the tolls of the San Francisco-Oakland Bay Bridge for the financing of the rapid transit tube specified in Article 5 (commencing with Section 30770), the commission shall continue to fix, and the department shall collect, tolls at substantially the same rates as in effect January 1, 1959, except that the commission may vary the rates applicable to commercial vehicles as it deems desirable to permit the rates to be based on the number of axles rather than gross weight. Revenues therefrom shall continue to be devoted to fulfilling any obligations of the commission pursuant to any bond indenture or statute in effect on that date, and any surplus revenues shall be held and invested as authorized by law for assistance in the financing of the rapid transit tube or such other purpose as may be authorized or provided by law. Subsequent to the issuance of the bonds for the financing of the rapid transit tube, the commission and the department shall fix and collect such rates of tolls as are necessary to comply with the obligations assumed by the commission in connection with the issuance of such bonds and the requirements of Article 5 (commencing with Section 30770).

SEC. 209. Section 30608.1 of the Streets and Highways Code is repealed.

SEC. 210. Section 30608.2 of the Streets and Highways Code is

amended to read:

30608.2. The commission may also vary, as it deems desirable, the rates applicable to vehicles operated on the San Francisco-Oakland Bay Bridge for the carriage of passengers by any municipal or public corporation, transit district, public utility district, or political subdivision, or by any transportation company operating under a certificate of public convenience and necessity.

SEC. 211. Section 30609 of the Streets and Highways Code is repealed.

SEC. 212. Article 2 (commencing with Section 30651) of Chapter 2 of Division 17 of the Streets and Highways Code is repealed.

SEC. 213. Section 30681 of the Streets and Highways Code is repealed.

SEC. 214. Section 30682 of the Streets and Highways Code is amended to read:

30682. For the purpose of providing funds for all engineering, traffic, and financial studies and expenses in connection with the financing and the preparation of the necessary surveys, plans, specifications, and estimates of cost for the construction of the toll bridge, and for the purpose of providing such additional funds, over and above the amount which can be raised through the issuance of revenue bonds, as may be necessary in order to complete the financing of the toll bridge, the commission may, from time to time, direct the State Controller to transfer to the commission, for expenditure by the department, the following amounts:

(a) From money in the State Highway Account required to be expended for the construction of state highways in the County of Los Angeles pursuant to former Section 188.4, as repealed by Chapter 1386 of the Statutes of 1963, a sum sufficient to complete the project over and above the amounts made available from the proceeds of revenue bonds and the amounts made available in subdivisions (b) and (c).

(b) Not to exceed the total of two million dollars ($2,000,000) from money in the Highway Users Tax Account in the Transportation Tax Fund available for apportionment to the County of Los Angeles. Any amount so transferred shall be deemed to be in the Highway Users Tax Account for the purpose of making the apportionments from that account, but the amount payable to the County of Los Angeles from the Highway Users Tax Account shall be reduced by an amount equal to the transfers so made.

(c) Not to exceed the total of two million dollars ($2,000,000) from money in the State Highway Account available for allocation and expenditure for city streets within the City of Los Angeles pursuant to Section 2107. Any amount so transferred shall be deemed to be in the State Highway Account for the purpose of making the allocations mentioned in Section 2107, but the amount expended from the State Highway Account for city streets within the City of Los Angeles shall be reduced by an amount equal to the transfers so made.

Of the first nine million dollars ($9,000,000) required for the

purpose of completing the project over and above the amount available from the sale of revenue bonds, the transfer shall be made from the above sources as follows:

Five-ninths from the State Highway Account, two-ninths from the funds mentioned in subdivision (b) and two-ninths from the amounts mentioned in subdivision (c). Additional necessary amounts shall be transferred from the State Highway Account upon resolution of the commission. The transfers shall be paid out or disbursed solely for the studies and expenses above mentioned and the preparation of the necessary surveys, plans, specifications, and estimates of cost, and for the construction of the toll bridge and the acquisition of the necessary lands and easements therefor. Any amount of the transfers not so expended shall be returned to the particular portion of the account from which it was transferred and shall be apportioned or allocated from the account and expended as if the transfer had not been made.

SEC. 215. Section 30683 of the Streets and Highways Code is amended to read:

30683. The amounts transferred pursuant to Section 30682 shall be repaid to the respective accounts from which transferred, but no repayment thereof shall be required until all obligations issued by the commission for the construction of the toll bridge and all bonds issued for refunding of the bonds and for additions, betterments, and extensions to the toll bridge, including new and additional approaches thereto, have been fully redeemed and paid, and then only out of the tolls and revenue received from the operation of the toll bridge.

SEC. 216. Section 30684 of the Streets and Highways Code is amended to read:

30684. After all bonds issued for the construction of the toll bridge and all bonds issued for refunding of the bonds and for additions, betterments, and extensions to the toll bridge, including new and additional approaches thereto, have been fully redeemed and paid, the commission shall continue to collect tolls and other revenues for the use of the toll bridge for the purpose of repaying the respective accounts from which money has been transferred pursuant to Section 30682. The amount so repaid to any such account shall be returned to the particular portion of the account from which it was transferred and shall be apportioned or allocated from the account and expended as if the transfer had not been made.

Upon repayment of all the accounts, the bridge shall thereafter be maintained and operated free of tolls or the rate of tolls shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper operation, maintenance, and insurance of the toll bridge under economical management.

SEC. 217. Section 30750 of the Streets and Highways Code is amended to read:

30750. As used in this article:

(a) "Existing bridge" means that certain bridge across the

Carquinez Straits near Crockett, known as the Carquinez Bridge, together with any existing or new and additional approaches thereto necessary or desirable to connect with the present State Highway Routes 7 and 14, or any realignment thereof, which approaches shall extend, constructed to freeway standards, to a point approximately four and one-half miles north of the north end of the bridge, which point is just north of the Greenfield Avenue intersection, and to a point approximately four miles south of the south end of the bridge, which point is just north of the intersection of Routes 14 and 106.

(b) "Additional Carquinez Bridge" means a new toll bridge across the Carquinez Straits near Crockett, to be located approximately parallel to and upstream from the existing bridge, together with all approaches thereto necessary or desirable to connect with the present State Highway Routes 7 and 14 or any realignment thereof, which approaches shall extend, constructed to freeway standards, to a point approximately four and one-half miles north of the north end of the bridge, which point is just north of the Greenfield Avenue intersection, and to a point approximately four miles south of the south end of the bridge, which point is just north of the intersection of Routes 14 and 106, and toll collection facilities to serve both the existing bridge and the additional toll bridge.

(c) "Benicia-Martinez Bridge" means a new toll bridge across Carquinez Straits and connecting, with suitable approaches, the Cities of Benicia and Martinez, such approaches to include improvements southerly to a connection with Route 106 and northerly to a connection with Route 74, approximately one-half mile northwesterly from Second Street in the City of Benicia, and an improvement with necessary or desirable realignment of Route 74 northerly to a connection with Route 7 near Cordelia, and toll collection facilities for the bridge.

SEC. 218. Section 30752 of the Streets and Highways Code is amended to read:

30752. For the purpose of obtaining funds to carry out the provisions of this article, the commission is authorized to issue revenue bonds. Except as herein otherwise provided, the provisions of the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000)) are hereby made applicable to the revenue bonds, and the commission and the department are authorized to do any and all things pursuant to law necessary to finance, construct, and complete the bridges mentioned in this article and the improvement of the existing bridge.

The commission may authorize the issuance of bonds in series in an amount estimated to be sufficient to complete the entire work authorized hereunder in successive stages, and may provide for the issuance and sale of sufficient revenue bonds to finance the construction of the additional Carquinez Bridge and the modification, improvement, and reconstruction of the existing bridge as the initial stage of such work. The commission may insert, in the bond indenture or resolution authorizing the bonds, such

conditions as it deems necessary upon the issuance and sale of the additional bonds necessary to finance the acquisition, construction, and completion of the Benicia-Martinez Bridge.

The revenues of each bridge need not be accounted for separately, but may be allocated as security for all of the bonds issued or to be issued hereunder as the commission may determine.

SEC. 219. Section 30753 of the Streets and Highways Code is amended to read:

30753. The commission is hereby authorized to reimpose tolls upon the existing bridge and to continue to collect tolls thereon for the purposes of this article, the collection of the tolls to commence upon the date the additional Carquinez Bridge is opened to public traffic. The commission is likewise authorized to impose tolls upon the use of the additional Carquinez Bridge when it is opened to public traffic and the Benicia-Martinez Bridge when it is opened to public traffic. The commission may provide for the collection of tolls upon the existing bridge and the additional Carquinez Bridge under such rules and regulations as the commission deems necessary in order to operate both bridges as a single toll bridge. No tolls shall be charged for the use only of the approaches of any of the bridges as the approaches are defined in Section 30750.

Subject to the limitations provided in this article, the tolls shall be used and applied as may be provided in a bond indenture or resolution of the commission authorizing the issuance of bonds for (a) the payment of principal and interest on the bonds; (b) the creation, establishment, and maintenance of reserve and other funds for the protection or retirement of the bonds; (c) operation and insurance expenses; and (d) any other charges in connection with the construction, operation, insuring, and financing of the bridges and the improvement of the existing bridge as may be determined by the commission, including the establishment of rehabilitation and improvement funds for further rehabilitation and improvement of the bridges.

Tolls shall continue to be collected upon the existing bridge, the additional Carquinez Bridge, and the Benicia-Martinez Bridge until all revenue bonds issued under this article have been fully paid and retired.

SEC. 220. Section 30760 of the Streets and Highways Code is amended to read:

30760. As used in this article:

(a) "Existing bridge" means that bridge connecting the County of Contra Costa near Antioch with the County of Sacramento near Amelia Landing on Sherman Island, known as the Antioch Bridge, together with any existing or new or additional approaches thereto necessary or desirable to connect the present Routes 4, 84, and 160, or any realignment thereof.

(b) "New bridge" or "new Antioch Bridge" means a new high-level fixed-span bridge across the San Joaquin River near Antioch to be located approximately parallel to and downstream

from the existing bridge, together with approaches thereto necessary or desirable to connect with the present Routes 4, 84, and 160, or any realignment thereof, and including necessary toll collection facilities. The new bridge shall include a lane for pedestrians and bicycles.

SEC. 221. Section 30763 of the Streets and Highways Code is amended to read:

30763. If the department determines that reimposition of tolls on the existing bridge will not jeopardize the possibility of obtaining federal funds to aid in financing the construction of the new bridge, the commission is authorized to reimpose tolls on the existing bridge. Revenues derived from such tolls shall be used solely for the following purposes:

(a) Modification, improvement, reconstruction, or remodeling of the existing bridge.

(b) To pay the costs of making studies and performing all preliminary work, including, but not limited to, surveys, plans, estimates of costs, right-of-way appraisals and acquisition, engineering studies, layouts, traffic studies, approach studies, consultant fees, and other preliminary expenses found by the department to be necessary preliminary to the issuance and sale of revenue bonds pursuant to the California Toll Bridge Authority Act (commencing with Section 30000) for the construction of the new Antioch Bridge. All revenues collected shall be deposited in the Antioch Bridge Toll Revenue Fund, which is hereby created, and shall be available for expenditure without regard to fiscal years.

(c) As security for the payment of revenue bonds issued to finance the construction of the new Antioch Bridge; provided, however, that the department may discontinue operation of the existing bridge upon the opening of the new Antioch Bridge to traffic.

SEC. 222. Section 30764 of the Streets and Highways Code is amended to read:

30764. For the purpose of obtaining funds to finance the construction of the new Antioch Bridge, the commission is authorized to issue revenue bonds. Notwithstanding any other provision of law, revenue bonds sold for any purpose authorized by this article may be sold at an interest rate not exceeding 8 percent per year.

Except as herein otherwise provided, the provisions of the California Toll Bridge Authority Act (commencing with Section 30000) are hereby made applicable to such revenue bonds, and the commission and the department are authorized to do any and all things pursuant to law necessary to finance and to construct the new Antioch Bridge.

The commission may insert in the bond indenture, or the resolution authorizing such bonds, such conditions as it deems necessary. The commission shall pledge the revenues of the new Antioch Bridge, from and after the date it is opened to traffic, as security for the payment of such bonds.

SEC. 223. Section 30764.5 of the Streets and Highways Code is

amended to read:

30764.5. In the revenue bond issue to finance the construction of a new Antioch Bridge, the commission shall include an amount sufficient to finance the construction of (a) the on and off ramps on Route 21 to Bayshore Road and Channel Road, also designated as the Benicia Viaduct ramps, pursuant to Section 321.1; and (b) the West Seventh Street and Route 680 Interchange in Benicia pursuant to Section 620.1.

SEC. 224. Section 30765 of the Streets and Highways Code is amended to read:

30765. As an alternative method of financing the new Antioch Bridge and such construction as specified in Section 30764.5, the commission may issue revenue bonds secured by a pledge of the revenues of the new Antioch Bridge and, on and after December 1, 1979, of the parallel Carquinez Bridges and the Benicia-Martinez Bridge.

If the work is so financed, all revenues collected from the operation of the existing bridge and new Antioch Bridge shall be paid into the same fund as revenues derived from the Carquinez Bridges and Benicia-Martinez Bridge and shall be available for expenditure for the same purposes as the revenues from those bridges.

SEC. 225. Section 30766 of the Streets and Highways Code is amended to read:

30766. If the revenue bonds to finance the construction of the new Antioch Bridge are secured by a pledge of the revenues of the parallel Carquinez Bridges, the Benicia-Martinez Bridge, and the new Antioch Bridge, as authorized by Section 30765, all of these bridges may be operated as a single unit. The revenues of each of such bridges need not be accounted for separately, but may be allocated as security for all of the bonds issued, or to be issued, by the commission for these bridges.

SEC. 226. Section 30770 of the Streets and Highways Code is repealed.

SEC. 227. Section 30771 of the Streets and Highways Code is amended to read:

30771. As used in this article:

(a) "District" means the San Francisco Bay Area Rapid Transit District.

(b) "Rapid transit tube" means a subaqueous tube across San Francisco Bay between the City and County of San Francisco and the County of Alameda, its approaches and fixed transit facilities, including, but not limited to, ventilation towers and equipment, tracks, and electrical distribution, control, lighting, and communication systems for the accommodation of rail rapid transit. The San Francisco terminus of the underwater portion of the rapid transit tube shall be located westward of the shoreline of San Francisco Bay as close thereto as may be reasonably practicable between Howard and Jackson Streets in the City and County of San Francisco. The Alameda County terminus shall be the Southern

Pacific mole or as close thereto as may be reasonably practicable.

(c) "Approaches" means all facilities between the terminus in Alameda County and the first station thereafter in the county for the discharge of passengers, and all facilities between the terminus in the City and County of San Francisco and the easterly end of the passenger platform of the Montgomery Street Station defined as "approaches" in the agreement between the department and the district, dated March 3, 1966.

SEC. 228. Section 30772 of the Streets and Highways Code is repealed.

SEC. 229. Section 30773 of the Streets and Highways Code is repealed.

SEC. 230. Section 30774 of the Streets and Highways Code is repealed.

SEC. 231. Section 30775 of the Streets and Highways Code is repealed.

SEC. 232. Section 30775.5 of the Streets and Highways Code is repealed.

SEC. 233. Section 30777 of the Streets and Highways Code is repealed.

SEC. 234. Section 30778 of the Streets and Highways Code is amended to read:

30778. (a) The annual tolls and revenues of the San Francisco-Oakland Bay Bridge, or so much thereof as may be necessary, after provision for the payment in full of all annual costs of operation, insurance, and other expenses of the San Francisco-Oakland Bay Bridge, and after payment or provision for payment in full of all of the costs of any project involving the San Mateo-Hayward Bridge, shall be pledged and used to finance and pay for the cost of the construction of additional highway crossings across San Francisco Bay as provided below, and for such other purposes as may be authorized by law, including, but not limited to, payment of the principal of, and interest and premiums, if any, on, and provision for security of, the revenue bonds of the commission issued pursuant to this article and the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000)).

(b) Bonds for the construction of additional highway crossings across San Francisco Bay may be authorized and issued by the commission. In the event the commission shall be authorized to refund any and all bonds issued for the construction of other toll bridges or toll highway crossings of San Francisco Bay and the rivers and streams tributary thereto in the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma and the City and County of San Francisco, then and in that event the commission is authorized to issue all of the bonds to be issued for the additional highway crossings over San Francisco Bay and the refunding bonds in a single authorization, and to pledge to the payment of the principal of, and interest on, all of the bonds and any provisions for the further security thereof, including reserve fund or

sinking fund payments or otherwise, all of the revenues of all of the bridges of San Francisco Bay and the rivers and streams tributary thereto, including the San Francisco-Oakland Bay Bridge, the San Mateo-Hayward Bridge, the Dumbarton Bridge, the Carquinez Strait Bridges, the Benicia-Martinez Bridge, the Antioch Bridge, and the Richmond-San Rafael Bridge, or any thereof as may be determined by the commission, together with revenues of the additional crossings to be constructed across San Francisco Bay.

SEC. 235. Section 30779 of the Streets and Highways Code is repealed.

SEC. 236. Section 30781 of the Streets and Highways Code is repealed.

SEC. 237. Section 30782 of the Streets and Highways Code is repealed.

SEC. 238. Section 30791.5 of the Streets and Highways Code is repealed.

SEC. 239. Section 30791.6 of the Streets and Highways Code is repealed.

SEC. 240. Section 30792 of the Streets and Highways Code is amended to read:

30792. For the purpose of obtaining funds to carry out the provisions of this article, the commission is authorized to issue revenue bonds. Except as otherwise provided in this section, the provisions of the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000)) are hereby made applicable to the revenue bonds, and the commission and the department are authorized to do any and all things pursuant to law necessary to finance, reconstruct, and improve the San Mateo-Hayward Bridge and to refinance the Dumbarton Bridge. The commission may authorize the issuance of bonds in series in an amount estimated to be sufficient to complete the entire work authorized in successive stages. The commission may insert, in the bond indenture or resolution authorizing the bonds, such conditions as it deems necessary.

SEC. 241. Section 30792.1 of the Streets and Highways Code is repealed.

SEC. 242. Section 30793 of the Streets and Highways Code is amended to read:

30793. The department is authorized to operate the San Mateo-Hayward and Dumbarton Bridges as a single unit, and shall continue to collect tolls on both bridges for purposes of paying any bonded indebtedness presently outstanding or which may be incurred pursuant to this article. Subsequent to a refinancing of any outstanding bonded indebtedness on both bridges, the revenues of each bridge need not be accounted for separately but may be allocated as security for all of the bonds issued pursuant to this article.

The tolls shall be used and applied, as may be provided in a bond indenture or resolution of the commission authorizing the issuance of bonds, for (a) the payment of principal and interest on the bonds;

(b) the creation, establishment, and maintenance of reserve and other funds for the protection or retirement of the bonds; (c) operation and insurance expenses; (d) the repayment of the State Highway Account for moneys expended pursuant to Chapter 2416 of the Statutes of 1957; and (e) any other charges in connection with the reconstruction, improvement, operation, insuring, maintenance, and financing of the San Mateo-Hayward Bridge and the refinancing of the Dumbarton Bridge as may be determined by the commission, including the establishment of rehabilitation and improvement funds for further rehabilitation and improvement of the San Mateo-Hayward Bridge and the Dumbarton Bridge.

SEC. 243. Section 30794 of the Streets and Highways Code is repealed.

SEC. 244. Article 8 (commencing with Section 30798) of Chapter 2 of Division 17 of the Streets and Highways Code is repealed.

SEC. 245. Section 30808 of the Streets and Highways Code is amended to read:

30808. All money received from any franchise granted by the department pursuant to this article shall be deposited in the State Highway Account.

SEC. 246. Section 30809 of the Streets and Highways Code is amended to read:

30809. The enforcement and administration of this article is declared to be a part of the highway program of the state, and all necessary expenditures of the department therefor are payable out of the State Highway Account.

SEC. 247. Section 30881 of the Streets and Highways Code is amended to read:

30881. "Authority" means the California Transportation Commission.

SEC. 248. Chapter 6 (commencing with Section 31300) of Division 17 of the Streets and Highways Code is repealed.

SEC. 249. Any section of any act enacted by the Legislature during the 1980 portion of the 1979–80 Regular Session, which takes effect on or before January 1, 1981, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 778

An act to amend Section 18038 of the Government Code, relating to state employees.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 18038 of the Government Code is amended to read:

18038. Any employee who is being coerced, or who has been required, by the appointing power, a supervisor, or another employee, to involuntarily reduce his or her worktime contrary to the intent of this article, or who has been unreasonably denied the right to participate in a program established pursuant to Section 18034, may file a grievance with the appropriate authority pursuant to the provisions of Article 24 (commencing with Section 540) of subchapter 1 of Chapter 1 of Division 1 of Title 2 of the California Administrative Code.

CHAPTER 779

An act to amend Section 82011 of the Government Code, relating to the Fair Political Practices Commission.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 82011 of the Government Code is amended to read:

82011. "Code reviewing body" means:

(a) The Commission, with respect to the Conflict of Interest Code of a state agency, a county board of supervisors, a city council, any public official specified in Section 87200, or any local government agency with jurisdiction in more than one county;

(b) The board of supervisors, with respect to the Conflict of Interest Code of any county agency other than the board of supervisors, and of any local government agency, other than a city agency, with jurisdiction wholly within the county;

(c) The city council, with respect to the Conflict of Interest Code of any city agency other than the city council; and

(d) The Attorney General, with respect to the Conflict of Interest Code of the Commission.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 780

An act to add Chapter 15 (commencing with Section 1424) to Title 10 of Part 2 of the Penal Code, relating to disqualification of prosecutors.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Chapter 15 (commencing with Section 1424) is added to Title 10 of Part 2 of the Penal Code, to read:

CHAPTER 15. DISQUALIFICATION OF PROSECUTING ATTORNEYS

1424. Notice of any motion to disqualify a district attorney from prosecuting a criminal case shall be served on the district attorney and the Attorney General at least 10 days before the motion is heard. The notice of motion must set forth a statement of the facts relevant to the claimed disqualification and the legal authorities relied upon by the moving party. The Attorney General may appear at the hearing on the motion and may file with the court hearing the motion his written opinion on the disqualification issue. The motion shall not be granted unless it is shown by the evidence that a conflict of interest exists such as would render it unlikely that the defendant would receive a fair trial. An order recusing the district attorney may be appealed by the district attorney or the Attorney General. The order shall be stayed pending any appeal authorized by this section.

CHAPTER 781

An act to amend Sections 5001.9 and 5002.2 of the Public Resources Code, relating to the state park system.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 5001.9 of the Public Resources Code is amended to read:

5001.9. (a) Any improvement existing within the state park system as of January 1, 1979, which fails to comply with the provisions of former Section 5001.5 as they read immediately prior to January 1, 1979, or Article 1.7 (commencing with Section 5019.50) of this chapter shall not be expanded.

(b) No new facility may be developed in any unit of the state park

system unless it is compatible with the classification of the unit.

SEC. 2. Section 5002.2 of the Public Resources Code is amended to read:

5002.2. (a) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, as the case may be, for the unit.

The general plan shall consist of elements that will evaluate and define the proposed land use, facilities, operation, environmental impact, management of resources, and any other matter deemed appropriate for inclusion in the plan.

The general plan shall constitute a report on a project for the purposes of Section 21100. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50) of this chapter, and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.

(c) Notwithstanding the requirements of subdivision (a), the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan, as the case may be, if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, so long as such construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination thereof at a single unit. Any such development shall be subject to the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(d) Any general plan approved prior to July 1, 1972, may be used as the basis for development if the director finds that there has been no significant change in the resources of the unit since approval of the plan and that the plan is compatible with current policies governing development of the unit and the classification of the unit.

CHAPTER 782

An act to amend Section 44320 of the Education Code, relating to teacher preparation.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 44320 of the Education Code is amended to read:

44320. (a) Professional preparation, including student teaching, shall be made available in the upper division course offerings at all California public institutions of higher learning. No more than nine semester units or equivalent units of professional education courses may be designated prerequisites for purposes of admission to student teaching, except that in the case of candidates who elect to satisfy the reading requirement as set forth in subdivision (e) of Section 44259 by an approved program of study rather than by an approved examination may be required to take 12 semester units, or the equivalent, as prerequisites to student teaching.

(b) Prior to admission to student teaching under any professional preparation program approved by the commission, a candidate for a credential shall obtain a certificate of clearance from the commission which shall be issued when the commission has verified the candidate's personal identification and health status. The fee for the certificate of clearance shall not exceed one-half of the regular fee for a credential and shall be deducted from the fee for the initial credential applied for by the certificate holder.

CHAPTER 783

An act to add and repeal Section 99400.6 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 99400.6 is added to the Public Utilities Code, to read:

99400.6. Notwithstanding Section 99232, the County of San Diego may file a claim under this article with the transportation planning agency to provide express bus service or vanpool service for the purpose of serving work commute trips and for providing

accessibility between residential areas and major activity centers.

The express bus service may be located anywhere in the county, but shall be consistent with the plans of the San Diego Metropolitan Transit Development Board and the North San Diego County Transit Development Board, and may be provided by contract with operators, common carriers of persons operating under a franchise or license, or nonprofit corporations organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

The vanpool service shall be operated by the county with county-owned vans and any claims submitted pursuant to this section for such service shall be approved subject to all of the following conditions:

(a) The amount of the claim to be limited to the actual cost of acquiring the vans.

(b) The local transportation fund to be reimbursed for the amount of the claim within the passenger service life of the vans.

This section shall remain in effect only until July 1, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, deletes or extends such date.

SEC. 2. The Legislature finds and declares that Section 1 of this act is necessary since special facts and circumstances applicable to the County of San Diego and not generally applicable make the accomplishment of the purpose of that section impossible by a general law within the meaning of Section 16 of Article IV of the California Constitution. The County of San Diego is unique in this state in that no public transportation route or corridor extends into any adjacent county. The Legislature further finds and declares that, in order to permit the County of San Diego to provide express bus service or vanpool services as a demonstration project, the purpose of this act is impossible to accomplish by a general law and the enactment of this act as a special law applicable only to the County of San Diego is therefore necessary.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for urgently needed transportation services to be provided at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 784

An act to amend Sections 5204 and 35551 of, to add Section 35551.5 to, and to repeal Section 35551 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 5204 of the Vehicle Code is amended to read:

5204. (a) Except as provided by subdivision (b), a tab shall indicate the year number for which issued and a tab shall indicate the month of expiration, which tabs, stickers, or other suitable devices shall be attached to the rear license plate assigned to the vehicle for the last preceding registration year in which license plates were issued, and, when so attached, the license plate with such tabs, stickers, or other devices shall, for the purposes of this code, be deemed to be the license plate for the ensuing registration year; except that truck tractors shall, and vehicles having an unladen weight of 10,000 pounds or more shall, display such tabs, stickers, or other devices upon the front license plate assigned to such vehicle.

(b) This section shall not apply to fleet vehicles subject to the provisions of Article 9.5 (commencing with Section 5300).

SEC. 2. Section 35551 of the Vehicle Code, as amended by Section 1 of Chapter 1129 of the Statutes of 1979, is repealed.

SEC. 3. Section 35551, as added to the Vehicle Code by Section 2 of Chapter 1129 of the Statutes of 1979, is amended to read:

35551. (a) Except as otherwise provided in this section or Section 35551.5, the total gross weight in pounds imposed on the highway by any group of two or more consecutive axles shall not exceed that given for the respective distance in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000	34,000	34,000	34,000	34,000
5	34,000	34,000	34,000	34,000	34,000
6	34,000	34,000	34,000	34,000	34,000
7	34,000	34,000	34,000	34,000	34,000
8	34,000	34,000	34,000	34,000	34,000
9	39,000	42,500	42,500	42,500	42,500
10	40,000	43,500	43,500	43,500	43,500
11	40,000	44,000	44,000	44,000	44,000
12	40,000	45,000	50,000	50,000	50,000
13	40,000	45,500	50,500	50,500	50,500
14	40,000	46,500	51,500	51,500	51,500
15	40,000	47,000	52,000	52,000	52,000
16	40,000	48,000	52,500	52,500	52,500
17	40,000	48,500	53,500	53,500	53,500
18	40,000	49,500	54,000	54,000	54,000
19	40,000	50,000	54,500	54,500	54,500

20	40,000	51,000	55,500	55,500	55,500
21	40,000	51,500	56,000	56,000	56,000
22	40,000	52,500	56,500	56,500	56,500
23	40,000	53,000	57,500	57,500	57,500
24	40,000	54,000	58,000	58,000	58,000
25	40,000	54,500	58,500	58,500	58,500
26	40,000	55,500	59,500	59,500	59,500
27	40,000	56,000	60,000	60,000	60,000
28	40,000	57,000	60,500	60,500	60,500
29	40,000	57,500	61,500	61,500	61,500
30	40,000	58,500	62,000	62,000	62,000
31	40,000	59,000	62,500	62,500	62,500
32	40,000	60,000	63,500	63,500	63,500
33	40,000	60,000	64,000	64,000	64,000
34	40,000	60,000	64,500	64,500	64,500
35	40,000	60,000	65,500	65,500	65,500
36	40,000	60,000	66,000	66,000	66,000
37	40,000	60,000	66,500	66,500	66,500
38	40,000	60,000	67,500	67,500	67,500
39	40,000	60,000	68,000	68,000	68,000
40	40,000	60,000	68,500	70,000	70,000
41	40,000	60,000	69,500	72,000	72,000
42	40,000	60,000	70,000	73,280	73,280
43	40,000	60,000	70,500	73,280	73,280
44	40,000	60,000	71,500	73,280	73,280
45	40,000	60,000	72,000	76,000	80,000
46	40,000	60,000	72,500	76,500	80,000
47	40,000	60,000	73,500	77,500	80,000
48	40,000	60,000	74,000	78,000	80,000
49	40,000	60,000	74,500	78,500	80,000
50	40,000	60,000	75,500	79,000	80,000
51	40,000	60,000	76,000	80,000	80,000
52	40,000	60,000	76,500	80,000	80,000
53	40,000	60,000	77,500	80,000	80,000
54	40,000	60,000	78,000	80,000	80,000
55	40,000	60,000	78,500	80,000	80,000
56	40,000	60,000	79,500	80,000	80,000
57	40,000	60,000	80,000	80,000	80,000
58	40,000	60,000	80,000	80,000	80,000
59	40,000	60,000	80,000	80,000	80,000
60	40,000	60,000	80,000	80,000	80,000

(b) In addition to the weights specified in subdivision (a), two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

(c) The distance between axles shall be measured to the nearest whole foot. When a fraction is exactly six inches, the next larger whole foot shall be used.

(d) Nothing contained in this section shall affect the right to prohibit the use of any highway or any bridge or other structure thereon in the manner and to the extent specified in Article 4 (commencing with Section 35700) and Article 5 (commencing with Section 35750) of this chapter.

(e) The gross weight limits expressed by this section and Section 35550 shall include all enforcement tolerances.

SEC. 4. Section 35551.5 is added to the Vehicle Code, to read:

35551.5. (a) The provisions of this section shall apply only to combinations of vehicles which contain a trailer or semitrailer. Each vehicle in such combination of vehicles, and every such combination of vehicles, shall comply with either Section 35551 or with subdivisions (b), (c), and (d) of this section.

(b) The gross weight imposed upon the highway by the wheels on any one axle of a vehicle shall not exceed 18,000 pounds and the gross weight upon any one wheel, or wheels, supporting one end of an axle and resting upon the roadway, shall not exceed 9,500 pounds, except that the gross weight imposed upon the highway by the wheels on any front steering axle of a motor vehicle shall not exceed 12,500 pounds. The gross weight limit provided for weight bearing upon any one wheel, or wheels, supporting one end of an axle shall not apply to vehicles the loads of which consist of livestock. The following vehicles are exempt from the front axle weight limits specified in this subdivision:

(1) Trucks transporting vehicles.

(2) Trucks transporting livestock.

(3) Dump trucks.

(4) Cranes.

(5) Buses.

(6) Transit mix concrete or cement trucks, and trucks that mix concrete or cement at, or adjacent to, a jobsite.

(7) Motor vehicles that are not commercial vehicles.

(8) Vehicles operated by any public utility furnishing electricity, gas, water, or telephone service.

(9) Trucks or truck tractors with a front axle at least four feet to the rear of the foremost part of the truck or truck tractor, not including the front bumper.

(10) Trucks transporting garbage, rubbish, or refuse.

(11) Trucks equipped with a fifth wheel when towing a semitrailer.

(12) Tank trucks which have a cargo capacity of at least 1,500 gallons.

(13) Trucks transporting bulk grains or bulk livestock feed.

(c) The total gross weight with load imposed on the highway by any group of two or more consecutive axles of a vehicle in such combination of vehicles or of such combination of vehicles where the

distance between the first and last axles of the two or more consecutive axles is 18 feet or less shall not exceed that given for the respective distance in the following table:

Distance in feet between first and last axles of group	Allowed load in pounds on group of axles
4	32,000
5	32,000
6	32,200
7	32,900
8	33,600
9	34,300
10	35,000
11	35,700
12	36,400
13	37,100
14	43,200
15	44,000
16	44,800
17	45,600
18	46,400

(d) The total gross weight with load imposed on the highway by any vehicle in such combination of vehicles or of such combination of vehicles where the distance between the first and last axles is more than 18 feet shall not exceed that given for the respective distances in the following table:

Distance in feet	Allowed load in pounds
19	47,200
20	48,000
21	48,800
22	49,600
23	50,400
24	51,200
25	55,250
26	56,100
27	56,950
28	57,800
29	58,650
30	59,500
31	60,350
32	61,200
33	62,050
34	62,900
35	63,750
36	64,600
37	65,450

38	66,300
39	68,000
40	70,000
41	72,000
42	73,280
43	73,280
44	73,280
45	73,280
46	73,280
47	73,280
48	73,280
49	73,280
50	73,280
51	73,280
52	73,600
53	74,400
54	75,200
55	76,000
56 or over	76,800

(e) The distance between axles shall be measured to the nearest whole foot. When a fraction is exactly six inches, the next larger whole foot shall be used.

(f) The gross weight limits expressed by this section shall include all enforcement tolerances.

(g) Nothing in this section shall affect the right to prohibit the use of any highway or any bridge or other structure thereon in the manner and to the extent specified in Article 4 (commencing with Section 35700) and Article 5 (commencing with Section 35750) of Chapter 5 of Division 15.

(h) The Legislature, in enacting this section, does not intend to increase, and this section shall not be construed to allow, statutory weights any greater than existed prior to January 1, 1976.

CHAPTER 785

An act to add Section 1320 to the Health and Safety Code, relating to health care.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 1320 is added to the Health and Safety Code, to read:

1320. A skilled nursing facility or intermediate care facility shall not require patients to purchase drugs, or rent or purchase medical

supplies or equipment, from any particular pharmacy or other source.

This section shall not preclude a skilled nursing facility or intermediate care facility from requiring that the patient's pharmacy or other source comply with the facility's policies and procedures reasonably necessary for the care of the patient or policies and procedures required to meet the intent of state or federal regulations. Nothing in this section shall preclude a skilled nursing facility or intermediate care facility from requiring that controlled substances which are periodically counted by the facility on at least a daily basis be dispensed by the patient's pharmacy in containers suitable for that purpose.

SEC. 2. The State Department of Health Services shall report to the Legislature on or before January 1, 1983, on whether this act has created unreasonable hardships on skilled nursing facilities or intermediate care facilities, and to what extent patients' freedom of choice has been enhanced.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 786

An act to amend Section 11100 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 11100 of the Health and Safety Code is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the State Department of Justice of all such transactions:

(1) Phenyl-2-propanone
(2) Methylamine
(3) D-lysergic acid
(4) Ergotamine tartrate
(5) Diethyl malonate

(6) Malonic acid
(7) Ethyl malonate
(8) Barbituric acid
(9) Piperidine
(10) N-acetylanthranilic acid.

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 4.5 (commencing with Section 11371) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes such substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes such substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the Board of Pharmacy who sells, transfers, or otherwise furnishes such substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in subdivision (a) to a person in this state shall, not less then 21 days prior to delivery of such substance, submit a report of such transaction to the Department of Justice. However, the Department of Justice may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that (1) a pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance, and (2) the recipient has established a record of utilization of such substance for lawful purposes.

(e) The Department of Justice shall grant an exemption to the reporting requirements of this section to any person who supplies a substance specified in subdivision (a) who can demonstrate, to the department's satisfaction, that the recipient requires the substance for a lawful purpose and that special circumstances prevent the supplier from reporting the transaction to the department not less than 21 days prior to delivery.

SEC. 1.5. Section 11100 of the Health and Safety Code, as amended by Section 1 of Assembly Bill No. 3476, is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the State Department of Justice of all such transactions:

(1) Phenyl-2-propanone
(2) Methylamine
(3) Ethylamine
(4) D-lysergic acid
(5) Ergotamine tartrate
(6) Diethyl malonate
(7) Malonic acid
(8) Ethyl malonate
(9) Barbituric acid
(10) Piperidine
(11) N-acetylanthranilic acid.

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 4.5 (commencing with Section 11371) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes such substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes such substance to his patients.

(3) Any manufacturer or wholesaler licensed by the Board of Pharmacy who sells, transfers, or otherwise furnishes such substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subdivision (a) to a person in this state shall, not less then 21 days prior to delivery of such substance, submit a report of such transaction to the Department of Justice. However, the Department of Justice may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that (1) a pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance, and (2) the recipient has established a record of utilization of such substance for lawful purposes.

(e) The Department of Justice shall grant an exemption to the reporting requirements of this section to any person who supplies a substance specified in subdivision (a) who can demonstrate, to the department's satisfaction, that the recipient requires the substance for a lawful purpose and that special circumstances prevent the supplier from reporting the transaction to the department not less than 21 days prior to delivery.

SEC. 1.7. It is the intent of the Legislature, if this bill and Assembly Bill 3476 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 11100 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 3476, that Section 11100 of the Health and Safety Code, as amended by Section 2 of Assembly Bill 3476 be further amended on the operative date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 11100 proposed by this bill. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 3476 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 11100, and this bill is chaptered after Assembly Bill 3476, in which case Section 1.5 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 787

An act to amend Section 15970 of the Government Code, relating to transportation.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 15970 of the Government Code is amended to read:

15970. The requirements of this chapter shall be completed by December 31, 1980, except for the requirements of Section 15972, which shall be completed not later than September 1, 1981.

CHAPTER 788

An act to add Article 5 (commencing with Section 32250) to Chapter 2 of Part 19 of the Education Code, relating to school crime and violence.

[Approved by Governor July 27, 1980. Filed with
Secretary of State July 28, 1980]

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

SECTION 1. Article 5 (commencing with Section 32250) is added to Chapter 2 of Part 19 of the Education Code, to read:

Article 5. School Safety and Security

32250. The Legislature recognizes that crime, including vandalism, and violence have reached an alarming level at school sites throughout California. The Legislature further recognizes that there is a need for dealing with the complex problems of crime and violence at school sites and for developing effective techniques and programs to combat crime and violence at school sites.

32251. There is hereby created in the Department of Education the School Safety and Security Resource Unit.

32252. The primary functions of the School Safety and Security Resource Unit are all the following:

(a) Identification of exemplary programs and techniques which have been effectively utilized by any county superintendent of schools or in any school district to combat crime and violence in the public schools, and dissemination of information relating to such programs and techniques to county superintendents of schools and school districts.

(b) Provision of technical assistance to county superintendents of schools and school districts which are developing and implementing programs to deal with crime and violence at school sites.

(c) Attempt to ascertain the underlying causes of violence and vandalism at school sites, and dissemination of such information to county superintendents of schools and school districts.

32253. The Department of Education shall evaluate the effectiveness of the School Safety and Security Resources Unit and shall submit a report thereof to the Legislature for each fiscal year subsequent to the fiscal year in which funds are made available pursuant to Section 32254.

32254. The Department of Education shall not be subject to the duties, obligations, and responsibilities prescribed by this article unless funds specifically appropriated for the purposes of this article are available.

CHAPTER 789

An act to amend Section 76140 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 76140 of the Education Code is amended to read:

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis.

A district may contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. Such fee may be paid in installments, as determined by the governing board of the district.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during the preceding fiscal year. However,

should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

The governing board of each community college district shall also adopt a tuition fee per unit of credit for nonresidents students enrolled in more or less than 15 units of credit per term by dividing the fee determined in the preceding paragraph by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.

SEC. 2. For the fall and spring semester of the 1980–81 academic year and for the fall, winter, and spring quarters of the 1980–81 academic year, the fee established by the governing board of a community college district prior to January 1, 1980, shall be increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for fiscal years 1979–80 and 1980–81.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to relieve the cost to the state and local taxpayer for the education of the nonresident student at the earliest possible time, it is necessary that this act become effective immediately.

CHAPTER 790

An act to amend Sections 12701, 12734, and 12799.3 of the Business and Professions Code, to amend Sections 102, 9570, 15061, 15062, 35101, 36637, 38953, 38986, 52002, 52031, 52061, 52063, 52257.5, 52291, 52351, 52451, 52485, 52486, 52512, 55601.6, 58775, and 67650 of, to amend the heading of Article 12 (commencing with Section 38391) of Chapter 5 of Part 3 of Division 15 of, to amend the heading of Article 3 (commencing with Section 52061) of Chapter 1 of Division 18 of, to add Sections 37164, 38398, 38399, 38400, 38401, and 52257.6 to, and to repeal Sections 14685, 14688, 33115, 43801, 47501, 47502, 52032, and 52062 of, the Food and Agricultural Code, and to amend Section 11552 of the Government Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 12701 of the Business and Professions Code is amended to read:

12701. The following shall not be construed to be public weighmasters:

(a) Retailers weighing or measuring commodities for sale by them in retail stores directly to consumers. The provisions of this exemption shall not apply to persons, firms, or corporations weighing bulk lot commodities on vehicle or hopper scales, or selling such commodities by volume, when the purchaser is not present at the time the weight or measure determination is made.

(b) Producers of agricultural commodities or livestock, weighing commodities produced or purchased by them or by their producer neighbors, when no charge is made for such weighing, or no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based; except that when such weight is to be used by a processor or conditioner as a basis of payment there shall be no exception to the provisions of Section 12734.

(c) Common carriers issuing waybills or bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Weighers licensed under the provisions of Section 35161 of the Food and Agricultural Code when performing the duties for which they are licensed.

(e) Employees of the department authorized to weigh agricultural products under the provisions of Chapter 8 (commencing with Section 12801) of Division 5, when performing

the duties authorized thereby.

(f) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(g) Employees of newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(h) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of such establishments.

(i) Employees of garbage and refuse disposal districts operating pursuant to Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code and county sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, which are authorized by their respective governing boards to utilize scales in determining charges for the disposal of liquid and solid wastes and employees of operators of solid waste disposal facilities, as defined in Section 66720.1 of the Government Code.

(j) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit cycling program.

(k) Persons operating under a license issued pursuant to Section 11701 of the Food and Agricultural Code.

SEC. 2. Section 12734 of the Business and Professions Code is amended to read:

12734. In all cases where farm products are delivered to a processing or conditioning establishment or sold to or purchased by agents, brokers, commission merchants, dealers, factors, processors, or conditioners on the basis of weight, such products shall be weighed by a weighmaster licensed under the provisions of this chapter. Where farm products are delivered, but are not sold, to a processing or conditioning establishment and the processing or conditioning charges are not based upon weight, a grower may request that such products be weighed by a licensed weighmaster prior to the processing or conditioning of such products.

Such products shall be weighed, prior to processing or conditioning, by a licensed weighmaster and the original certificate as to such weight issued by the weighmaster shall be delivered to the seller or owner by the weighmaster, agent, broker, commission merchant, dealer, factor, processor, or conditioner, and settlement for such product shall be based on the weight shown thereon. When the processing or conditioning fees are based upon the weight of the finished product, the finished product shall be weighed by a licensed weighmaster and a second weight certificate shall be delivered to the seller or owner.

A grower whose product is delivered, but is not sold, to a processor or conditioner for processing or conditioning, may waive, in writing, his right to have his product weighed when the processing or conditioning establishment is operated by a producer of farm products and the processing or conditioning is incidental to the

production of farm products. As used in this paragraph, "incidental" means that the income derived from the processing or conditioning operation represents not more than 25 percent of the total income of the producer operating the processing or conditioning establishment.

This section does not apply to any nonprofit cooperative association which is organized and operating pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, except as to that portion of activities which involves the handling or dealing in any farm product of any nonmember of such an association.

The term "farm products" as used in this chapter includes all agricultural, horticultural and viticultural and vegetable products of the soil, flaxseed and cottonseed, but shall not include timber, timber products, milk and milk products.

SEC. 3. Section 12799.3 of the Business and Professions Code is amended to read:

12799.3. In all cases where farm products are delivered to a processing or conditioning establishment or sold to or purchased by agents, brokers, commission merchants, dealers, factors, processors, or conditioners on the basis of weight, such products shall be weighed by a weighmaster licensed under the provisions of this chapter Where farm products are delivered but are not sold to a processing or conditioning establishment and the processing or conditioning charges are not based upon weight, a grower may request that such products be weighed by a licensed weighmaster prior to the processing or conditioning of such products.

Such products shall be weighed, prior to processing or conditioning, by a licensed weighmaster and the original certificate as to such weight issued by the weighmaster shall be delivered to the seller or owner by the weighmaster, agent, broker, commission merchant, dealer, factor, processor, or conditioner, and settlement for such products shall be based on the weight shown thereon. When the processing or conditioning fees are based upon the weight of the finished product, the finished product shall be weighed by a licensed weighmaster and a second weight certificate shall be delivered to the seller or owner.

A grower whose product is delivered, but is not sold, to a processor or conditioner for processing or conditioning, may waive, in writing, his right to have his product weighed when the processing or conditioning establishment is operated by a producer of farm products and the processing or conditioning is incidental to the production of farm products. As used in this paragraph, "incidental" means that the income derived from the processing or conditioning operation represents not more than 25 percent of the total income of the producer operating the processing or conditioning establishment.

This section does not apply to any nonprofit cooperative association which is organized and operating pursuant to Chapter 1

(commencing with Section 54001) of Division 20 of the Food and Agricultural Code, except as to that portion of activities which involves the handling or dealing in any farm product of any nonmember of such an association.

The term "farm products" as used in this chapter includes all agricultural, horticultural and viticultural and vegetable products of the soil, flaxseed and cottonseed, but shall not include timber, timber products, milk and milk products.

SEC. 4. Section 102 of the Food and Agricultural Code is amended to read:

102. The department is under the control of a civil executive officer known as the Director of Food and Agriculture who shall receive the same salary as officers listed in Section 11550 of the Government Code. He shall be appointed by, and hold office at the pleasure of, the Governor. The director shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars ($25,000).

SEC. 4.5. Section 9570 of the Food and Agricultural Code is amended to read:

9570. If the director determines that an infectious or contagious disease exists among domestic animals, or that animals have been exposed, or may have been exposed, to the disease, or to the vectors of the disease, in any other state or territory in the United States, or in any foreign country, and the importation of animals, animal products, or refuse animal or vegetable matter from the state, territory, or foreign country may transmit, carry, or disseminate the disease to domestic animals within this state, the director shall prescribe the conditions, if any, under which such animals, animal products, or refuse animal or vegetable matter, may be imported into this state from any other state, territory, or foreign country.

All quarantine regulations which involve another state, or a territory, district, or foreign country shall be made by the director. The regulations shall be approved and proclaimed by the Governor or by the director as the Governor's designee.

SEC. 5. Section 14685 of the Food and Agricultural Code is repealed.

SEC. 6. Section 14688 of the Food and Agricultural Code is repealed.

SEC. 7. Section 15061 of the Food and Agricultural Code is amended to read:

15061. An inspection tonnage tax at the maximum rate of ten cents ($0.10) per ton of commercial feed sold, except whole grains, and whole hays when unmixed, shall be paid to the director by any person who distributes commercial feed to a consumer-buyer in this state. The distributor shall also pay an inspection tonnage tax for purchased commercial feed fed to his own animals.

The director may, based upon a finding and recommendation of the Feed Inspection Advisory Board, determine the specific rate necessary to provide the revenue needed to carry out the provisions

of this chapter. The director and the Feed Inspection Advisory Board shall not exceed the maximum tonnage rate established by this section.

SEC. 8. Section 15062 of the Food and Agricultural Code is amended to read:

15062. Every person subject to payment of the inspection tonnage tax shall make reports and payments in the manner prescribed by the director by regulation.

If payment is delinquent, a penalty of 15 percent of the amount past due shall be charged. For payments more than 12 months delinquent, an additional penalty of 1 percent per month of the amount past due shall be charged. The director shall set a penalty fee, as necessary to cover administrative costs, for any delinquency in making a report.

SEC. 9. Section 33115 of the Food and Agricultural Code is repealed.

SEC. 10. Section 35101 of the Food and Agricultural Code is amended to read:

35101. It is unlawful for any person, unless he has a license to do so, to engage in the business of manufacturing, freezing, or processing any of the following:

(a) Oleomargarine, or margarine, colored oleomargarine or colored margarine, renovated butter, or a substitute for butter.

(b) Imitation ice cream or imitation ice milk.

SEC. 11. Section 36637 of the Food and Agricultural Code is amended to read:

36637. Every definition, standard, and permit which is established or issued pursuant to this article expires on the 61st day after the final adjournment of the second regular session of the Legislature commencing after the establishment or issuance of such definition, standard or permit.

SEC. 11.5. Section 37164 is added to the Food and Agricultural Code, to read:

37164. Butter flavored with spices, condiments, garlic, chives, herbs, or other flavoring may be sold in whipped or solid form, provided the product meets the following requirements:

(a) The butter, before flavoring, meets all of the requirements for USDA 93 score (AA Grade) butter.

(b) The principal flavor is identified on the container with equal prominence with the word "butter."

(c) The principal display panel has a list of all ingredients in the descending order of predominence, and identifies the name and address of the manufacturer.

(d) The product is processed in a licensed milk products plant.

(e) The product contains no preservative.

SEC. 12. The heading of Article 12 (commencing with Section 38391) of Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code is amended to read:

Article 12. Extra Grade Edible Dry Whey, Dry Buttermilk, and Modified Dry Whey

SEC. 12.1. Section 38398 is added to the Food and Agricultural Code, to read:

38398. Modified dry whey means the class of foods manufactured from fresh, pasteurized, cheese whey by various processes and procedures under conditions prescribed by the director.

SEC. 12.2. Section 38399 is added to the Food and Agricultural Code, to read:

38399. Safe and suitable substances, as defined in Section 130.3 of Title 21 of the Code of Federal Regulations, may be used in the chemical, physical, or microbial processing of whey during the manufacture of modified whey products.

SEC. 12.3. Section 38400 is added to the Food and Agricultural Code, to read:

38400. The maximum standard plate count for modified dry whey shall not exceed 50,000 per gram, and the maximum coliform bacteria count shall not exceed 10 per gram. All other chemical, physical, and bacteriological standards for modified dry whey shall be consistent with, but shall not exceed, requirements established under the Federal Food, Drug, and Cosmetic Act.

SEC. 12.4. Section 38401 is added to the Food and Agricultural Code, to read:

38401. Each container of modified dry whey shall be labeled "Modified Dry Whey." The label shall also contain a descriptive term of the modification, approved in writing by the director, and a compositional analysis of the finished product. Except for bacterial counts, the compositional analysis shall include those values commonly associated with determining the grade of dry whey.

SEC. 12.5. Section 38953 of the Food and Agricultural Code is amended to read:

38953. An imitation milk product shall be labeled "imitation" followed by the name of the milk product imitated. For example, an imitation milk product having the appearance and semblance of milk shall be labeled "imitation milk." There shall be included on the label of an imitation milk product the name and address of the manufacturer or distributor, and any other information which the director, by regulation, determines to be in the public interest.

SEC. 13. Section 38986 of the Food and Agricultural Code is amended to read:

38986. If the director determines that fees established to enforce and administer the provisions of this chapter exceed the cost of enforcing and administering the provisions, he may by regulation reduce the fees accordingly. If he determines that the fees are insufficient to defray the costs, he may use funds for the administration and enforcement of this chapter which are collected from producers and distributors pursuant to Article 14 (commencing with Section 62211) of Chapter 2 of Part 3 of Division 21 and which

have been appropriated from the Department of Agriculture Fund for such purpose.

SEC. 14. Section 43801 of the Food and Agricultural Code is repealed.

SEC. 15. Section 47501 of the Food and Agricultural Code is repealed.

SEC. 16. Section 47502 of the Food and Agricultural Code is repealed.

SEC. 17. Section 52002 of the Food and Agricultural Code is amended to read:

52002. The director shall do all of the following:

(a) Establish, by regulation, uniform standards for field crop products which shall conform as closely as possible to those which are established by the Secretary of the United States Department of Agriculture.

(b) Establish inspection districts within the state. If such a district is established, inspection service may be rendered in it in accordance with regulations which are adopted by the director.

(c) Establish, upon request, inspection stations at warehouses, docks, or industrial plants, which are within or without an established inspection district. The director may make special regulations which are applicable to each specific inspection station and the conditions under which it shall be established and maintained.

(d) Provide through the regularly established inspection district and stations, sampling, grading, inspection, weighing, and certification service for field crop products within the state or which are shipped into or through the state.

(e) Issue certificates as to quality, condition, and quantity of field crop or other agricultural products in accordance with standards which are established pursuant to this chapter, or any other standards which may be fixed by trade or contract and which do not conflict with official standards.

(f) Adopt regulations for sampling, grading, inspection, weighing, and certification for the purposes of carrying out this chapter.

(g) Fix fees for sampling, grading, inspection, weighing, and certification of field crop products, which fees in the aggregate shall pay the cost of services necessary to perform such sampling, grading, inspection, weighing, and certification. The director may collect such fees in advance of performing the services, but is not required to do so if in his opinion the benefits of such services would be lessened by such advance payments.

SEC. 18. Section 52031 of the Food and Agricultural Code is amended to read:

52031. The director shall issue to each employee who is authorized to grade, inspect, or weigh the products which are included under this chapter, except those products for which standards have been established pursuant to federal law, a certificate which shows such authority.

SEC. 19. Section 52032 of the Food and Agricultural Code is

repealed.

SEC. 20. The heading of Article 3 (commencing with Section 52061) of Chapter 1 of Division 18 of the Food and Agricultural Code is amended to read:

Article 3. Inspection, Grading, Weighing, and Certification

SEC. 21. Section 52061 of the Food and Agricultural Code is amended to read:

52061. The director shall inspect, weigh, and grade upon request and certify to any interested party the quality, condition, and quantity of any field crop or other agricultural product under such regulations as he may prescribe. Certificates which are issued by authorized agents of the director are prima facie evidence of the truth of the statements which are contained in them. The presumption established by this section is a presumption affecting the burden of proof, but it does not apply in a criminal action.

Such inspection shall not be made or such certificates issued by any person not specifically authorized by the director in reference to any field crop product for which state standards have been established. Any person so authorized shall comply with the regulations adopted by the director relative to the certification of field crop products.

SEC. 22. Section 52062 of the Food and Agricultural Code is repealed.

SEC. 23. Section 52063 of the Food and Agricultural Code is amended to read:

52063. Any person that is aggrieved by the grading by any authorized inspector of any of the products for which standards have been established pursuant to this chapter may appeal to the director in accordance with such regulations as he may establish. If the appeal pertains to a commodity for which standards have been established pursuant to federal law, the appellant may appeal to the Federal Grain Inspection Service.

SEC. 24. Section 52257.5 of the Food and Agricultural Code is amended to read:

52257.5. "Conditioner" means any person who cleans, scarifies, or blends to obtain uniform quality, or who conducts other operations which would change the purity, germination, or identity of any lot of seed, including, but not limited to, packaging, labeling, blending together of uniform lots of the same kind or variety, or the preparation of a mixture.

SEC. 24.5. Section 52257.6 is added to the Food and Agricultural Code, to read:

52257.6. "Process" means any modification of the form or nature of agricultural or vegetable seed, or any treatment of the seed, which renders it inviable.

SEC. 25. Section 52291 of the Food and Agricultural Code is amended to read:

52291. There is in the department a Seed Advisory Board

consisting of seven members appointed by the director five of whom shall be labelers registered under the provisions of this chapter and two of whom shall be members of the public. The members of the board who are labelers registered under the provisions of this chapter shall be representative of the functions of seed production, conditioning, marketing, or utilization.

SEC. 26. Section 52351 of the Food and Agricultural Code is amended to read:

52351. Every labeler of agricultural or vegetable seed offered for sale or sold in this state, or any person who receives or possesses for sale or sells in this state any such seed which is not grown in this state, shall annually register with the director to obtain authorization to sell agricultural or vegetable seed before he engages in such activity, except any of the following:

(a) An individual grower that conditions such seed exclusively for his own planting use.

(b) A person using agricultural or vegetable seed, or both agricultural and vegetable seed, only for purposes of planting seed increase.

(c) Any person licensed to sell nursery stock pursuant to Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, except when he also engages in activities as defined under Section 52257.5.

SEC. 27. Section 52451 of the Food and Agricultural Code is amended to read:

52451. This article does not apply to any of the following:

(a) Seed or grain which is not intended for sowing purposes.

(b) Seed which is in storage in, or consigned to, a seed cleaning or conditioning establishment for cleaning or conditioning.

(c) Seed or grain which is transported without transfer of title for sowing on land which is owned by the person by whom the seed or grain was produced.

(d) Seed which is weighed and packaged in the presence of the purchaser from a bulk container, if such container is properly and conspicuously labeled as provided by this chapter.

(e) Seed or grain which is transported from one warehouse to another without transfer of title or in storage in a warehouse, if each container is plainly marked or identified with a lot number or other lot identification and the label information which is required by this article is available at the request of an enforcing officer.

SEC. 28. Section 52485 of the Food and Agricultural Code is amended to read:

52485. It is unlawful for any person to sell or divert for use or for processing, either for human or animal consumption, any grain or other crop seed which is treated after harvest with any substance that is likely to be poisonous or toxic to human beings or animals, unless there is an established state or federal pesticide residue tolerance for such poisonous or toxic substance on the specific grain or crop seed, and such pesticide residue tolerance is not exceeded.

SEC. 29. Section 52486 of the Food and Agricultural Code is

amended to read:

52486. Sections 52481, 52482, and 52484 of this article do not apply to any common carrier in respect to any seed which is transported or delivered for transportation in the ordinary course of its business as a carrier if such carrier is not engaged in conditioning or merchandising seed which is subject to the provisions of this chapter.

SEC. 30. Section 55601.6 of the Food and Agricultural Code is amended to read:

55601.6. To provide funds to carry out the provisions of Section 55601.5, each processor who crushes more than 100 tons of grapes in California shall pay to the director the amount determined by the director to be necessary to cover these costs, but not to exceed two cents ($0.02) per ton of grapes received for crushing, fresh weight equivalent, during each marketing season beginning July 1 and ending the following June 30, provided that one cent ($0.01) per ton of grapes received for crushing, or one-half of the fee if the fee is less than two cents ($0.02), shall be paid by the processor who crushes grapes and that one cent ($0.01) per ton of grapes received for crushing including any grapes produced by the processor, or one-half of the fee if the fee is less than two cents ($0.02), shall be paid by the processor who crushes grapes and may be deducted from moneys owed to the producer.

The amount of such fee shall be paid to the director on or before January 10 of each year on all grapes received for crushing through December 15. The amount of such fee on any grapes received for crushing after December 15 shall be paid to the director on or before June 30 of that marketing season.

The director may fix such fee at a lesser amount and may adjust such fee from marketing season to marketing season.

Any processor who crushes grapes who fails, neglects, or refuses to pay the required fee shall be in violation of this chapter as provided for in subdivision (i) of Section 55601.5. Any processor who crushes grapes shall not be entitled to pass any such penalty on to the producer of such grapes.

All moneys received under the provisions of this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund.

SEC. 31. Section 58775 of the Food and Agricultural Code is amended to read:

58775. To provide the director with accurate and reliable information, if such information is not then on file in the department, regarding the persons that may be directly affected by the provisions of any proposed marketing order for any commodity, the director shall, if he has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this chapter, or upon receipt of a written application for a hearing pursuant to Section 58771, notify all handlers of such commodity to file with the director, within 30 days from the last date of such notice, a report, properly certified, which shows all of the following:

(a) The correct name and address of such handler.

(b) The quantities of the commodity that are affected by such proposed marketing order which were handled by such handler in the marketing season next preceding the filing of such report.

(c) The correct name and address of every producer of such commodity, that may be directly affected by such proposed marketing order, from whom such handler received such commodity in the marketing season next preceding the filing of such report.

(d) The quantities of such commodity which were received by such handler from each such producer in the marketing season next preceding the filing of such report.

SEC. 32. Section 67650 of the Food and Agricultural Code is amended to read:

67650. (a) The county agricultural commissioner or the sheriff of a county subject to this division shall issue, in accordance with the provisions of this division, permits, wood receipts, tags, and seals for a fee as prescribed by the board of supervisors of the county where the native plants are located. Such fee shall not be less than one dollar ($1) per plant for all native plants, except Yucca brevifolia (Joshua tree), and not less than two dollars ($2) per plant for each Yucca brevifolia (Joshua tree), except that in the case of trees, live or dead, mesquite, palo verde or ironwood species of trees cut or removed for wood, as provided in Section 67652, such fee shall not be less than one dollar ($1) per cord, or in the case of Yucca schidigera used for commercial harvesting the fee shall not be less than three dollars ($3) per ton. Such fees shall cover the cost of issuing a permit and may cover other related costs including but not limited to, administration, enforcement, and research costs. The permit shall specify, among other things, the species of native plants which may be harvested, the area from which plants may be harvested, and the manner in which plants may be harvested. No person, except as provided in this division, shall harvest, transport, offer for sale, or have in his possession any native plant unless at the time of harvesting he has a valid permit or valid wood receipt therefor on his person, and he attaches the required tags and seals to the native plants, and unless he exhibits the permit, wood receipt, and tags and seals upon request for inspection by any duly authorized agent of the county agricultural commissioner or any peace officer as provided in this division. No wood receipt or tag and seal is valid unless it is issued with a valid permit and such permit bears the tag number or wood receipt number on its face.

(b) Native plants which have been tagged and sealed, as provided in this section, may be transported under a California nursery stock certificate or a shipping permit.

SEC. 33. Section 11552 of the Government Code is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks

(b) Commissioner of Corporations
(c) Insurance Commissioner
(d) Director of Transportation
(e) Real Estate Commissioner
(f) Savings and Loan Commissioner
(g) Director of Social Services
(h) Director of Water Resources
(i) Director of Corrections
(j) Director of General Services
(k) Director of Industrial Relations
(*l*) Director of Motor Vehicles
(m) Director of the Youth Authority
(n) Commissioner, California Highway Patrol
(o) Members of the Public Utilities Commission
(p) Director of Employment Development
(q) Director of Alcoholic Beverage Control
(r) Director of Housing and Community Development
(s) Director of Alcohol and Drug Abuse
(t) Director of the Office of Statewide Health Planning and Development

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CHAPTER 791

An act to amend Section 36101 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 36101 of the Vehicle Code is amended to read:

36101. The following farm vehicles are exempt from registration, provided they have and display an identification plate as specified in Section 36125, and such vehicles shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) A motor vehicle of such a size as to require a permit under Section 35780 owned and operated by a farmer, designed and used exclusively for carrying or returning empty from carrying feed and seed products of farming, and used on a highway between one part of a farm to another part thereof or from one farm to another farm.

(b) A vehicle equipped with a water tank owned by a farmer and used exclusively to service his own implements of husbandry.

(c) A water tank truck which is used exclusively for sprinkling water on dirt roads providing access to agricultural fields and which is only incidentally operated or moved on a highway.

CHAPTER 792

An act relating to the State Teachers' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. The sum of twenty-one thousand one hundred ninety-nine dollars ($21,199) is hereby appropriated from the Teacher Tax-Sheltered Annuity Fund to be transferred to Item 135 of the Budget Act of 1979 (Ch. 259, Stats. 1979) for support of personal services and operating expenses and equipment within the State Teachers' Retirement System necessary to operate the tax-sheltered annuity program pursuant to Section 22231 of the Education Code.

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

The teacher tax-sheltered annuity program has been in effect since January 1, 1980 without funding for personal services and operating expenses necessary to meet the program objectives.

CHAPTER 793

An act to amend Section 2454 of, and to add Section 2525.26 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 2454 of the Business and Professions Code is amended to read:

2454. The fees collected by the Board of Medical Quality Assurance from persons licensed under this chapter, excluding podiatrists and acupuncturists, shall be paid into the Contingent Fund of the Board of Medical Quality Assurance, and may be used to carry out the provisions of this chapter relating to the compilation, publication, and sale of a directory.

If there is any surplus in these receipts, such surplus shall be applied solely to expenses incurred under the provisions of this

chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.

SEC. 2. Section 2525.26 is added to the Business and Professions Code, to read:

2525.26. There is in the State Treasury the Podiatry Fund. The board shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the committee, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into such fund. On and after July 1, 1981, all revenue received by the committee and the board from fees authorized to be charged relating to the practice of podiatry shall be deposited in such fund as provided in this section, and shall be continuously appropriated to the committee to carry out the provisions of this chapter relating to the regulation of the practice of podiatry.

(b) On and after July 1, 1981, the unencumbered balance of any funds in the Contingency Fund of the Board of Medical Quality Assurance derived from fees and revenue received from licensed podiatrists and registered podiatry corporations, and applicants for such a license or registration, shall be transferred to the Podiatry Fund and shall be expended as provided in this section.

CHAPTER 794

An act to amend Section 44508 of, and to add Sections 44511 and 44512 to, the Health and Safety Code, relating to pollution control financing.

[Approved by Governor July 27, 1980. Filed with Secretary of State July 29, 1980.]

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

SECTION 1. Section 44508 of the Health and Safety Code is amended to read:

44508. "Project" and "pollution control facility," respectively, means any land, building, improvement thereto, work, property or structure, real or personal, providing or designed to provide for the control, reduction, abatement, elimination, or prevention of pollution, including, but not limited to, hydrostatic control facilities, dust collectors, smoke bags, settling ponds, filtration plants, sewage disposal facilities, garbage disposal facilities, recycling facilities, dumps, filling grounds, chlorination ponds, treatment works, and all other structures or facilities now or hereafter developed or useful in the control of pollution of any type or character, including any structure, equipment, or other facilities for the purpose of reducing, treating, neutralizing, or cooling the temperature of any liquid, gaseous, or solid waste substance or discharge resulting from the

process of manufacture, industry, or commerce, or from the development, processing, or recovery of any natural resource or the generation of electricity, steam heat, or manufactured gas, together with the recovery, treatment, neutralizing, stabilizing, or cooling equipment, facilities, plants, or structures necessary to reduce, control, or eliminate pollution, and any and all facilities which may hereafter be developed through science, study, and investigation to aid and assist in the control of pollution or the removal or treatment of any substance which might otherwise cause or contribute to such pollution, and including the use of renewable energy resource devices or the development of an energy conservation program where such action is designed to reduce onsite emissions or pollutants.

SEC. 2. Section 44511 is added to the Health and Safety Code, to read:

44511. "Renewable energy resource device" means any device, or any combination of devices, which produces heat, process heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to such uses, which do not expend or use fossil or nuclear fuels except when used for pumps, fans, or other minor controls.

SEC. 3. Section 44512 is added to the Health and Safety Code, to read:

44512. "Energy conservation program" means any program which utilizes techniques or devices including, but not limited to, cogeneration, waste heat recovery systems, efficient lighting systems, and energy efficiency improvements to industrial processes, which are primarily intended to reduce energy consumption.

CHAPTER 795

An act to amend Section 11734 of, and to add Sections 11712 and 11713 to, the Food and Agricultural Code, relating to pest control, and making an appropriation therefor.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 11712 is added to the Food and Agricultural Code, to read:

11712. (a) A person regularly engaged in the business of maintenance gardening and who desires to engage in pest control for hire incidental to such business shall be qualified for licensing as a maintenance gardener pest control operator upon passing the Certified Commercial Applicators Examination in both the laws and regulation and the ornamental and turf categories.

(b) Maintenance gardener pest control operations shall be limited to ornamental and turf inplantings surrounding structures and commercial parks. A contract or verification that the pest control operation is incidental and that maintenance gardening is the primary purpose shall be required.

(c) A record shall be maintained and available for inspection. The record shall consist of the date of application, the location, and the pesticide used.

SEC. 2. Section 11713 is added to the Food and Agricultural Code, to read:

11713. (a) Application for a license as a maintenance gardener pest control operator shall be in the form prescribed by the director. Each application shall state the name and address of the applicant and shall be accompanied by a fee of twenty-five dollars ($25) to be paid into the Department of Agriculture Fund.

(b) All licenses issued pursuant to this section shall expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration upon application in the form prescribed by the director, accompanied by a fee of twenty-five dollars ($25). A penalty of ten dollars ($10) shall be assessed against any applicant who applies for a renewal of such license after the expiration date. Such renewal fees and penalties shall be paid into the Department of Agriculture Fund.

SEC. 3. Section 11734 of the Food and Agricultural Code is amended to read:

11734. (a) The board of supervisors of any county may establish reasonable fees for the registration required under Section 11732. However, registration fees for maintenance gardener pest control operators licensed pursuant to Section 11713 shall be that amount necessary to cover the costs of registration, but shall not exceed twenty-five dollars ($25) per year.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

CHAPTER 796

An act to amend Section 4047.6 of, and to repeal Article 9 (commencing with Section 4300) of Chapter 9 of Division 2 of, the Business and Professions Code, relating to pharmacy.

[Approved by Governor July 27, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 4047.6 of the Business and Professions Code is amended to read:

4047.6. (a) Except as provided in Section 4047.7, on and after May 1, 1976, a pharmacist filling a prescription order for a drug product prescribed by its trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug type, as defined in subdivision (f).

(b) In no case shall a selection be made pursuant to this section if the prescriber personally indicates, either orally or in his own handwriting, "Do not substitute," or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription marked "Do not substitute"; provided that the prescriber personally initials such box or checkmark.

(c) Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subdivision (b). The person who selects the drug product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug product as would be incurred in filling a prescription for a drug product prescribed by generic name. There shall be no liability on the prescriber for an act or omission by a pharmacist in selecting, preparing, or dispensing a drug product pursuant to this section. In no case shall the pharmacist select a drug product pursuant to this section unless the drug product selected costs the patient less than the prescribed drug product. Cost, as used in this subdivision, is defined to include any professional fee which may be charged by the pharmacist.

(d) This section shall apply to all prescriptions, including those presented by or on behalf of persons receiving assistance from the federal government or pursuant to the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) When a substitution is made pursuant to this section, the use of the cost-saving drug product dispensed shall be communicated to the patient and the name of the dispensed drug product shall be indicated on the prescription label, except where the prescriber orders otherwise.

(f) For the purposes of this section, the term "generic drug type" means the chemical or generic name, as determined by the United States Adopted Names (USAN) and accepted by the Federal Food and Drug Administration (FDA), of those drug products having the same active chemical ingredients.

SEC. 2. Article 9 (commencing with Section 4300) of Chapter 9 of Division 2 of the Business and Professions Code is repealed.

CHAPTER 797

An act to amend Sections 2550, 2558, and 62000 of, to add Sections 2551.3, 42238.3, 42241.3, and 42241.5 to, to add Article 4 (commencing with Section 2570) to Chapter 12 of Part 2 of, to repeal Chapter 11 (commencing with Section 42900) of Part 24 of, and to repeal and add Part 30 (commencing with Section 56000) of, the Education Code, relating to special education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 2550 of the Education Code is amended to read:

2550. The Superintendent of Public Instruction shall perform the computations prescribed in this section for each county superintendent of schools.

(a) The Superintendent of Public Instruction shall make the following computations to determine the revenue limits for special schools and classes operated by county superintendents of schools:

(1) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the 1978–79 revenue limits for the programs specified in subdivision (e) of Section 2500, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978. The Superintendent of Public Instruction shall increase such revenue limits by a percentage equal to the inflation allowance calculated in Section 2557.

(2) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the allowances which county superintendents receive per unit of average daily attendance in programs operated pursuant to Section 1980 or 48633.

(3) The Superintendent of Public Instruction shall multiply the amounts calculated in paragraphs (1) and (2) by the estimated number of units of average daily attendance for such programs for the 1979–80 fiscal year.

(4) The total amount calculated in paragraph (3) may be used for any of the programs specified in this subdivision.

(b) The Superintendent of Public Instruction shall make the following computations to determine the amount to be allocated for vocational/technical schools and classes operated by county superintendents of schools:

(1) For the 1979–80 fiscal year, for programs operated pursuant to Section 52301, the Superintendent of Public Instruction shall determine the 1978–79 revenue limits specified in Section 52317, as

computed pursuant to Section 6 of Chapter 292, Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978. The Superintendent of Public Instruction shall increase such revenue limits by a percentage equal to the inflation allowance calculated in Section 2557. The Superintendent of Public Instruction shall then multiply this adjusted revenue limit by the estimated number of units of average daily attendance for such programs for the 1979–80 fiscal year. For purposes of this paragraph, such estimate shall include only average daily attendance earned by students concurrently enrolled in regular high school programs and by adults enrolled in adult programs mandated pursuant to Section 41976.

(2) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the revenue limits per unit of average daily attendance for programs operated pursuant to Sections 1791 and 2520, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978. The Superintendent of Public Instruction shall increase such revenue limits by a percentage equal to the inflation allowance calculated in Section 2557. The Superintendent of Public Instruction shall then multiply these adjusted revenue limits by the respective number of units of average daily attendance for such programs for the 1979–80 fiscal year.

(3) The total amount calculated in paragraphs (1) and (2) may be used for any of the programs specified in this subdivision.

SEC. 2. Section 2551.3 is added to the Education Code, to read:

2551.3. (a) For the 1979-80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall make the following computations to determine the state aid to be allocated for pregnant minors programs operated by county superintendents of schools:

(1) The Superintendent of Public Instruction shall determine expenditures made by the county office for the 1979-80 fiscal year and shall divide such amount by the average daily attendance in such program for the 1979-80 fiscal year.

(2) For the 1980–81 fiscal year, the quotient computed pursuant to paragraph (1) shall be increased by 9 percent, and shall be cumulatively increased in each fiscal year thereafter by the average inflation allowance applied to unified school district revenue limits.

(3) The amount computed pursuant to paragraph (2) shall be multiplied by the average daily attendance in pregnant minors programs for the then current fiscal year.

(b) The product computed pursuant to paragraph (3) of subdivision (a) shall be added to the sum computed pursuant to subdivision (a) of Section 2558.

(c) County superintendents who operate pregnant minors programs for the 1979-80 fiscal year shall continue to operate pregnant minors programs in the 1980–81 fiscal year and each fiscal year thereafter.

(d) County superintendents who did not operate pregnant

minors programs in the 1979-80 fiscal year may apply to the Superintendent of Public Instruction for approval to operate such programs. The revenue limit adjustment for the program shall be the statewide average amount for the then fiscal current year as computed pursuant to subdivision (a) of Section 42241.5.

(e) Funds received for average daily attendance in pregnant minors programs shall be expended on such programs.

(f) The Superintendent of Public Instruction shall adopt rules and regulations for the effective administration of pregnant minors programs.

SEC. 3. Section 2558 of the Education Code is amended to read:

2558. Notwithstanding any other provision of law, for the 1979–80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall apportion state aid to county superintendents of schools pursuant to the provisions of this section.

(a) The Superintendent of Public Instruction shall total the amounts computed for the fiscal year pursuant to Sections 2550, 2551, 2551.3, 2552, 2554, 2555, and 2557. For the 1979–80 fiscal year only, the amount in this subdivision shall be multiplied by a factor of 0.994.

(b) The Superintendent of Public Instruction shall subtract from the amount determined in subdivision (a) the sum of: (1) local property tax revenues received pursuant to Section 2573 in the then current fiscal year, and tax revenues received pursuant to Section 2556 in the then current fiscal year, (2) state and federal categorical aid for the fiscal year, (3) district contributions pursuant to Section 52321 for the fiscal year, and other applicable local contributions and revenues, and (4) any amounts that the county superintendent of schools was required to maintain as restricted and not available for expenditure in the 1978–79 fiscal year as specified in the second paragraph of subdivision (c) of Section 6 of Chapter 292, Statutes of 1978, as amended by Chapter 51, Statutes of 1979.

(c) The remainder computed in subdivision (b) shall be distributed in the same manner as state aid to school districts from funds appropriated to Section A of the State School Fund.

(d) If the remainder determined pursuant to subdivision (b) is a negative amount, no state aid shall be distributed to that county superintendent of schools pursuant to subdivision (c), and an amount of funds of that county superintendent equal to such negative amount shall be deemed restricted and not available for expenditure during the current fiscal year. In the next fiscal year, such amount shall be considered local property tax revenue for purposes of the operation of paragraph (1) of subdivision (b) of this section.

SEC. 4. Article 4 (commencing with Section 2570) is added to Chapter 12 of Part 2 of the Education Code to read:

Article 4. Allocation of Property Tax Revenues

2570. For the 1980–81 fiscal year and each fiscal year thereafter the county superintendent of schools shall allocate property tax revenues pursuant to this article.

2571. The Superintendent of Public Instruction shall make the following computations for each county superintendent of schools:

(a) Add the property tax revenues received for the 1977–78 fiscal year pursuant to subdivisions (b), (c) and (d) of Section 2500, Section 2501 for purposes of Section 1705, Section 2502 for purposes of Section 56811, Section 2505 for special education tuition charges, Section 42909 for purposes of Section 56604, and Section 56364. For purposes of this subdivision, section references are to sections effective during the 1977–78 fiscal year.

(b) Divide the sum computed pursuant to subdivision (a) by the total amount of property tax revenues received by the county superintendent of schools for the 1977–78 fiscal year.

(c) Multiply the quotient computed pursuant to subdivision (b) by the total amount of property tax revenues received by the county superintendent of schools for the then current fiscal year.

(d) Subtract the product computed pursuant to subdivision (c) from the total amount of property tax revenues received by the county superintendent of schools for the then current fiscal year.

(e) For purposes of subdivisions (c) and (d), "total property tax revenues" include taxes on the secured roll, taxes on the unsecured roll, prior year taxes and subventions of property taxes.

2572. The product computed pursuant to subdivision (c) of Section 2571 is the amount of property tax revenues to be allocated to special education programs. Such amount shall be subtracted pursuant to subdivision (d) of Section 56712.

2573. The remainder computed pursuant to subdivision (d) of Section 2571 is the amount of property tax revenues to be allocated for programs funded pursuant to Section 2558.

SEC. 5. Section 42238.3 is added to the Education Code, to read:

42238.3. The county superintendent of schools shall annually reduce each district's revenue limit calculated pursuant to Section 42238 by the amount of revenues received by the district in fiscal year 1977–78 from a permissive tax levied for the purpose of funding development centers for handicapped pupils.

SEC. 5.5. Section 42241.3 is added to the Education Code, to read:

42241.3. (a) For the 1980–81 fiscal year and each fiscal year thereafter, the revenue limit of each school district authorized pursuant to Section 42238 shall be increased by the following amount:

(1) For districts that did not operate under the Master Plan for Special Education in fiscal year 1979–80:

(A) The county superintendent shall divide the state aid for special education received by the district in the 1979–80 fiscal year for the purpose of providing instruction in the home or hospital for pupils with temporary physical disabilities by the average daily

attendance in such programs for the 1979–80 fiscal year.

(B) The quotient computed pursuant to subparagraph (A) shall be increased by 9 percent for the 1980–81 fiscal year, and shall be cumulatively increased in each fiscal year thereafter by the inflation increase applied to the district's revenue limit pursuant to Section 42238.

(C) The amount computed pursuant to subparagraph (B) shall be multiplied by the average daily attendance in such programs for the district for the then current fiscal year.

(2) For districts that operated under the Master Plan for Special Education in fiscal year 1979–80:

(A) The county superintendent shall compute the district's total cost of operating programs of instruction in the home or hospital for pupils with temporary physical disabilities in the 1979–80 fiscal year. Such total cost shall not exceed the number of pupils enrolled in such programs in the 1979–80 fiscal year multiplied by two thousand two hundred ninety-six dollars ($2,296).

(B) From the amount computed pursuant to subparagraph (A), the county superintendent shall subtract an amount equal to the district's 1979–80 fiscal year revenue limit per unit of average daily attendance pursuant to subdivision (c) of Section 42237 multiplied by the district's average daily attendance in programs of instruction in the home or hospital for pupils with temporary physical disabilities in the 1979–80 fiscal year.

SEC. 6. Section 42241.5 is added to the Education Code, to read:

42241.5. (a) For the 1980–81 fiscal year and each fiscal year thereafter, the revenue limit of each school district authorized pursuant to Section 42238 shall be increased by the following amount:

(1) For districts that did not operate under the Master Plan for Special Education in fiscal year 1979–80:

(A) The county superintendent shall divide the state aid for special education received by the district in the 1979–80 fiscal year for the purpose of providing programs for pregnant minors by the average daily attendance in such programs for the 1979–80 fiscal year.

(B) The quotient computed pursuant to subparagraph (A) shall be increased by 9 percent for the 1980-81 fiscal year, and shall be cumulatively increased in each fiscal year thereafter by the statewide average inflation increase applied to the unified school district revenue limit.

(C) The amount computed pursuant to subparagraph (B) shall be multiplied by the average daily attendance in pregnant minors programs for the district for the then current fiscal year.

(2) For districts that operated under the Master Plan for Special Education in fiscal year 1979–80:

(A) The county superintendent shall compute the district's total cost of operating pregnant minors programs in the 1979–80 fiscal year. Such total cost shall not exceed the number of pupils enrolled in pregnant minors programs in the 1979–80 fiscal year multiplied by

two thousand two hundred ninety-six dollars ($2,296).

(B) From the amount computed pursuant to subparagraph (A), the county superintendent shall subtract an amount equal to the district's 1979–80 fiscal year revenue limit per unit of average daily attendance pursuant to subdivision (c) of Section 42237 multiplied by the district's average daily attendance in pregnant minors programs for the 1979–80 fiscal year.

(b) School districts that offer pregnant minors programs and that receive state aid for special education for such programs in the 1979-80 fiscal year shall continue to operate pregnant minors programs in the 1980-81 fiscal year and each fiscal year thereafter.

(c) School districts that did not operate pregnant minors programs in the 1979-80 fiscal year may apply to the Superintendent of Public Instruction for approval to operate such programs. The revenue limit adjustment for the programs shall be the statewide average amount for the then current fiscal year as computed pursuant to subdivision (a).

(d) Funds apportioned on the basis of the revenue limit adjustments prescribed by this section shall be expended for pregnant minors programs.

(e) The Superintendent of Public Instruction shall adopt rules and regulations for the effective administration of pregnant minors programs.

SEC. 7. Chapter 11 (commencing with Section 42900) of Part 24 of the Education Code is repealed.

SEC. 8. Part 30 (commencing with Section 56000) of the Education Code is repealed.

SEC. 9. Part 30 (commencing with Section 56000) is added to the Education Code, to read:

PART 30. SPECIAL EDUCATION PROGRAMS

CHAPTER 1. GENERAL PROVISIONS

Article 1 Intent

56000. The Legislature finds and declares that all individuals with exceptional needs have a right to participate in free appropriate public education and that special educational instruction and services for these persons are needed in order to ensure them of the right to an appropriate educational opportunity to meet their unique needs.

It is the intent of the Legislature to unify and improve special education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to assure that all individuals with exceptional needs are provided their rights to appropriate programs and services which are designed to meet their unique needs under Public Law 94-142.

It is the further intent of the Legislature that nothing in this part

shall be construed to abrogate any right provided individuals with exceptional needs and their parents or guardians under Public Law 94-142.

It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs which is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils.

It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with provisions of this part by all school districts and county offices during a two-year transitional period commencing with fiscal year 1980–81, with full implementation to be completed by June 30, 1982.

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until such time that he or she has met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(b) Early educational opportunities are available to all children between the ages of three and four years and nine months who require intensive special education and services.

(c) Early educational opportunities may be made available to children younger than three years of age who require intensive special education and services and their parents.

(d) Any child younger than four years and nine months, potentially eligible for special education shall be afforded the protections provided by this part and by federal law commencing with his or her referral for special education instruction and services.

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education which sets forth the elements of the programs in accordance with the provisions of this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communications.

(g) Individuals with exceptional needs are offered special assistance programs which promote maximum interaction with the general school population in a manner which is appropriate to the needs of both.

(h) Pupils be transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. Such procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with non-English-speaking and limited-English-speaking pupils as defined in subdivisions (d) and (e) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic, nonsectarian schools, regional occupational centers and programs and postsecondary and adult programs for individuals with exceptional needs.

(*l*) Psychological and health services for individuals with exceptional needs shall be available to each school site.

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education services region, or county office shall be made to insure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and that positive efforts to employ qualified handicapped individuals are made.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

Article 2. Definitions

56020. As used in this part, the definitions prescribed by this article apply unless the context otherwise requires.

56021. "Board" means the State Board of Education.

56022. "County office" means office of the county superintendent of schools.

56023. "Day" means a calendar day.

56024. "Department" means the Department of Education.

56025. "District" means school district.

56026. "Individuals with exceptional needs" means those pupils who satisfy all the following:

(a) Identified through assessment as autistic, mentally retarded, deaf, hard of hearing, speech or language impaired, visually handicapped, seriously emotionally disturbed, behaviorally

disordered, developmentally handicapped, orthopedically handicapped, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, including learning disabilities within the function of vision which result in visual perceptual or visual motor dysfunction.

(b) Their impairment, as described by subdivision (a), requires instruction, services, or both which cannot be provided with modification of the regular school program.

(c) Come within one of the following age categories:

(1) Younger than three years of age and identified by the district, the special education services region, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(2) Between the ages of three and four years and nine months, inclusive, and identified by the district, the special education services region, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(3) Between the ages of four years and nine months and 18 years, inclusive.

(4) Between the ages of 19 and 21, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards prescribed pursuant to Sections 51215 and 51216. Any such person who becomes 22 years of age while participating in a program under this part may continue his or her participation in the program for the remainder of the then current school year.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless handicapped within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to unfamiliarity with the English language; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

56027. "Local plan" means a plan which meets the requirements of Chapter 3 (commencing with Section 56200) and which is submitted by a school district, special education services region, or county office.

56028. "Parent", includes any person having legal custody of a child. "Parent" in addition, includes any adult pupil for whom no guardian or conservator has been appointed and the person having custody of a minor if neither the parent or legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate.

56029. "Referral for assessment" means any written request for assessment to identify an individual with exceptional needs made by a parent, teacher, or other service provider.

56030. "Responsible local agency" means the school district or

county office designated in the local plan as the entity whose duties shall include, but are not limited to, receiving and distributing regionalized services funds, providing administrative support, and coordinating the implementation of the plan.

56031. "Special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, whose educational needs cannot be met with modification of the regular instruction program, and related services, at no cost to the parent, which may be needed to assist such individuals to benefit from specially designed instruction.

Special education is an integral part of the total public education system and provides education in a manner that promotes maximum interaction between handicapped and nonhandicapped pupils in a manner which is appropriate to the needs of both.

Special education provides a full continuum of program options to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment.

Individuals with exceptional needs shall be grouped for instructional purposes according to their instructional needs.

56032. "Special education services region" means the school districts organized within a geographic area in accordance with subdivision (b) of Section 56170 to coordinate the administration and delivery of special education services. Such organization may provide for the appointment of a responsible local agency to perform functions assigned by the special education services region.

56033. "Superintendent" means the Superintendent of Public Instruction.

Article 3. General Provisions

56040. Every individual with exceptional needs, who is eligible to receive educational instruction services under this part shall receive such educational instruction, services, or both, at no cost to his or her parents or, where appropriate, to him or her.

Article 4. Substitute Teachers

56060. A noncredentialed person shall not substitute for any special education certificated position.

56061. A person holding a valid credential authorizing substitute teaching may serve as a substitute for the appropriately credentialed special education teacher as follows:

(a) Except as provided in subdivisions (b) and (c), the employer shall not employ an inappropriately credentialed substitute teacher for a period of more than 20 cumulative school days for each special education teacher absent during each school year.

(b) Upon application by the district or county office, the superintendent may approve an extension of 20 school days in addition to those authorized by subdivision (a).

(c) Only in extraordinary circumstances may an additional number of days be granted beyond the 40 school days provided for by subdivisions (a) and (b). Such additional days shall be granted in writing by the superintendent. The superintendent shall report to the board on all requests granted for an additional number of days pursuant to this subdivision.

56062. The employer shall use the following priorities in placing substitute teachers in special education classrooms:

(a) A substitute teacher with the appropriate special education credential or credentials.

(b) A substitute teacher with any other special education credential or credentials.

(c) A substitute teacher with a regular teaching credential.

56063. The employer shall be responsible for seeking, and maintaining lists of, appropriately credentialed substitute teachers. The employer shall contact institutions of higher education with approved special education programs for possible recommendations of appropriately credentialed special education personnel.

CHAPTER 2. ADMINISTRATION

Article 1. State Board of Education

56100. The State Board of Education shall do all the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

(b) Adopt criteria and procedures for the review and approval by the board of local plans. Local plans may be approved for up to three years.

(c) Adopt size and scope standards for use by districts, special education service regions, and county offices, pursuant to subdivision (a) of Section 56170.

(d) Provide review, upon petition, to any district, special education services region, or county office that appeals a decision made by the department which affects its providing services under this part.

(e) Review and approve a program evaluation plan for special education programs provided by this part in accordance with Chapter 6 (commencing with Section 56600).

(f) Recommend to the Commission for Teacher Preparation and Licensing the adoption of standards for the certification of professional personnel for special education programs conducted pursuant to this part.

(g) Adopt regulations to provide specific procedural criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(h) Adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. Such guidelines shall be developed to aid teachers and parents in assessing an

individual pupil's education program and the appropriateness of the special education services.

(i) In accordance with the requirements of federal law, adopt regulations for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

(j) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

56101. (a) Any district, special education services region, or county office may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to any such provision if such waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under Public Law 94-142, or to the compliance of a district, special education services region, or county office with Public Law 94-142, as amended, Section 504 of Public Law 93-112, as amended, and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any such request when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education services region, or county office with federal mandates for a free, appropriate education for handicapped children.

Article 2. Superintendent of Public Instruction

56120. The superintendent shall administer the provisions of this part.

56121. The superintendent shall grant approval of the organization of the local plans within each county.

56122. The superintendent shall establish guidelines for the development of local plans, including a standard format for local plans, and provide assistance in the development of local plans. The purposes of such guidelines and assistance shall be to help districts and county offices benefit from the experience of other local agencies that implement programs under this part, including, but not limited to, reducing paperwork, increasing parental involvement, and providing effective staff development activities. To the extent possible, all forms, reports, and evaluations shall be designed to satisfy simultaneously state and federal requirements.

56123. The superintendent shall review and recommend to the board for approval, local plans developed and submitted in accordance with this part.

56124. The superintendent shall promote innovation and improvement in the field of special education at the public and nonpublic, nonsectarian school, district, county, and state levels.

56125. The superintendent shall monitor the implementation of

local plans by periodically conducting onsite program and fiscal reviews.

56126. The superintendent shall encourage the maximum practicable involvement of parents of children enrolled in special education programs.

56127. The superintendent shall make recommendations in the areas of staff development, curriculum, testing and multicultural assessment, and the development of materials for special education programs.

56128. The superintendent shall prepare for board approval, as necessary, any state plan required by federal law in order that this state may qualify for any federal funds available for the education of individuals with exceptional needs.

56129. The superintendent shall maintain the state special schools in accordance with Part 32 (commencing with Section 59000) so that the services of such schools are coordinated with the services of the district, special education services region, or the county office.

56130. The superintendent shall develop in accordance with Sections 33401 and 56602, an annual program evaluation plan and report of special education programs authorized under this part for submission to the board.

56131. The superintendent shall apportion funds in accordance with Chapter 7 (commencing with Section 56700) and approved local plans.

56132. The superintendent shall assist districts and county offices in the improvement and evaluation of their programs.

56133. The superintendent shall provide review to any parent, as specified in Section 56506, or a hearing, as specified in Section 56507.

Article 3. County Offices

56140. County offices shall do all of the following:

(a) Initiate and submit to the superintendent a countywide plan for special education which demonstrates the coordination of all local plans submitted pursuant to Section 56200 and which ensures that all individuals with exceptional needs will have access to appropriate special education programs and related services. However, a county office shall not be required to submit a countywide plan when all the districts within the county elect to submit a single local plan.

(b) Within 45 days, approve or disapprove any proposed local plan submitted by a district or group of districts within the county or counties. Such approval shall be based on the capacity of the district or districts to ensure that special education programs and services are provided to all individuals with exceptional needs.

(1) If approved, the county office shall submit the plan with comments and recommendations to the superintendent.

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county

office's disapproval. The superintendent shall make a decision on such an appeal within 30 days of receipt of the appeal.

(3) A local plan may not be implemented without approval of the plan by the county office or a decision by the superintendent to overrule the disapproval of the county office.

(c) Participate in the state onsite review of the district's implementation of an approved local plan.

(d) Join with districts in the county to submit a plan or plans pursuant to subdivision (c) of Section 56170. Any such plan may include more than one county, and districts located in more than one county.

Article 4. Juvenile Court Schools

56150. Special education programs authorized by this part shall be provided, pursuant to Section 48645.2, for individuals with exceptional needs who have been adjudicated by the juvenile court for placement in a juvenile hall or juvenile home, day center, ranch, or camp.

Article 5. Licensed Children's Institutions

56155. As used in this article, "licensed children's institutions" means a residential facility, including a foster home, which is licensed by the State Department of Social Services or other state agency to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs.

56156. (a) Each person, court, regional center for the developmentally disabled, or public agency which engages in referring children to, or placing children in, licensed children's institutions shall report to the county office of the county in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

(b) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the county office of the county in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

56157. In addition to being responsible for programs operated under the provisions of Section 48645.2, the county office shall be responsible for ensuring the appropriate placement of individuals with exceptional needs residing in licensed children's institutions. In fulfilling its responsibility, the county office shall provide special education and related services for individuals with exceptional needs who reside in a licensed children's institution either directly or indirectly. To provide such education and services indirectly, the county office shall authorize enrollment in programs authorized by a district, special education services region, or another county office, or shall contract with a nonpublic, nonsectarian school or other

agency. If special education and related services are provided by contract with a nonpublic, nonsectarian school, or with a licensed children's institution, the terms of such contract shall be developed in accordance with the provisions of Section 56366.

56158. Districts and special education service regions shall assist the county office in locating the most appropriate educational placement, in the least restrictive environment, for individuals with exceptional needs who reside in licensed children's institutions.

56159. If a district, special education services region, or county office does not make the placement decision of an individual with exceptional needs in a licensed children's institution, the court, regional center for the developmentally disabled, or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

56160. (a) The superintendent shall apportion, pursuant to Chapter 7 (commencing with Section 56700), funds directly to each county office operating programs under this article.

(b) However, the superintendent shall apportion funds pursuant to Chapter 7 (commencing with Section 56700) directly to each district which provides special education and instruction to individuals with exceptional needs residing in foster homes.

56161. Individuals with exceptional needs served under county offices under this article shall not be subject to the service proportions prescribed by Article 7 (commencing with Section 56760) of Chapter 7.

56162. Individuals with exceptional needs placed in a licensed children's institution by a court, regional center for the developmentally disabled, or public agency, other than an educational agency, prior to the effective date of this article, shall be considered residents of the county in which the licensed children's institution is located, for special education and related services pursuant to Sections 56157 and 56160.

56163. A licensed children's institution which provides nonsectarian educational programs for individuals with exceptional needs shall be certified by the Department of Education as prescribed by subdivision (c) of Section 56366.

56164. This article shall not apply to programs operating in state hospitals and juvenile court schools.

56165. This article shall not apply to individuals with exceptional needs placed in a licensed children's institution pursuant to Section 56365.

56166. The board shall adopt rules and regulations to implement the provisions of this article.

Article 6. School Districts

56170. The governing board of a school district shall elect to do one of the following:

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent, in accordance with Section 56200, a local plan for the education of all individuals with exceptional needs residing in the district.

(b) In conjunction with one or more districts submit to the superintendent, in accordance with Section 56200, a local plan for the education of individuals with exceptional needs residing in such districts. Such plan shall, through joint powers agreements or other contractual agreements, include all the following:

(1) Provision of a governance structure and any necessary administrative support to implement the plan.

(2) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the special education services region.

(3) Designation of a responsible local agency or alternative administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of the services required by the plan.

(c) Join with the county office, to submit to the superintendent a plan in accordance with Section 56200 to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the plan. The county office shall coordinate the implementation of such plan, unless otherwise specified in the plan. Such plan shall, through contractual agreements, include all of the following:

(1) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the geographical area served by the plan.

(2) Designation of the county office, of a responsible local agency, or other alternative administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

56171. In developing a local plan under Section 56170, each district shall:

(a) Cooperate with the county office and other school districts in the geographic areas in planning its option under Section 56170 and, commencing with fiscal year 1982–83 and each fiscal year thereafter, notify the county office of its intent to elect an alternative option from those specified in Section 56170, at least one year prior to the proposed effective date of the implementation of such alternative plan.

(b) Cooperate with the county office to assure that the plan is compatible with other local plans in the county and any county plan

of a contiguous county.

(c) Join with the county office in countywide planning pursuant to subdivision (a) of Section 56140.

(d) Submit to the county office for review any plan developed under subdivision (a), or (b) of Section 56170.

56172. (a) Each county office and district governing board shall have authority over the programs it directly maintains, consistent with the local plan submitted pursuant to Section 56170. In counties with more than one special education services region for which the county office provides services, relevant provisions of contracts between the county office and its employees governing wages, hours, and working conditions shall supersede like provisions contained in a plan submitted under Section 56170.

(b) Any county office or district governing board may provide for the education of individual pupils in special education programs maintained by other districts or counties, and may include within their special education programs pupils who reside in other districts or counties. Section 46600 shall apply to interdistrict attendance agreements for programs conducted pursuant to this part.

Article 7. Community Advisory Committee

56190. Each plan submitted under Section 56170 shall establish a community advisory committee. Such committee shall serve only in an advisory capacity.

56191. The members of the community advisory committee shall be appointed by, and responsible to, the governing board of each participating district or county office, or any combination thereof participating in the local plan. Appointment shall be in accordance with a locally determined selection procedure that is described in the local plan. Such procedure shall provide that terms of appointment are for at least two years and are annually staggered to ensure that no more than one half of the membership serves the first year of the term in any one year.

56192. The community advisory committee shall be composed of parents of individuals with exceptional needs enrolled in public or private schools, parents of other pupils enrolled in school, handicapped pupils and adults, regular education teachers, special education teachers and other school personnel, representatives of other public and private agencies, and persons concerned with the needs of individuals with exceptional needs.

56193. At least the majority of such committee shall be composed of parents of pupils enrolled in schools participating in the local plan, and at least a majority of such parents shall be parents of individuals with exceptional needs.

56194. The community advisory committee shall have such authority and fulfill such responsibilities as are defined for it in the local plan. Such responsibilities shall include, but need not be limited to, all the following:

(a) Advising the policy and administrative entity of the district, special education services region, or county office, regarding the development and review of the local plan. Such entity shall review and consider comments from the community advisory committee.

(b) Recommending annual priorities to be addressed by the plan.

(c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

(d) Encouraging community involvement in the development and review of the local plan.

(e) Supporting activities on behalf of individuals with exceptional needs.

CHAPTER 2.5. TRANSITIONAL ADMINISTRATION

56195. It is the intent of the Legislature to encourage maximum practicable implementation of the Master Plan for Special Education consistent with the provision of quality programs during fiscal year 1980–81 and 1981–82. It is the intent of the Legislature to provide for the gradual implementation of the new program requirements and to recognize the need to employ qualified staff to satisfy these requirements.

56195.1. A district or county office previously approved by the board for implementation of the Master Plan during fiscal year 1980–81 shall operate special education programs pursuant to this part unless the superintendent grants an extension to operate special education programs, in accordance with law effective as of January 1, 1980. Such extension shall be granted only after the superintendent has made a finding that implementation of the requirements of this part during fiscal year 1980–81 would diminish the quality of programs and services provided to individuals with exceptional needs.

56195.2. (a) A district or county office previously approved by the board for implementation of the Master Plan during fiscal year 1981–82 may continue execution of local policies relating to identification, referral, assessment, instructional planning, implementation, and review until a local plan is adopted.

(b) A district or county office previously approved for implementation of the Master Plan during fiscal year 1981–82 may, if a transitional certificated and classified employee staffing plan is submitted pursuant to Section 56195.3, continue execution of local program and staffing plans until a local plan is adopted.

(c) The remaining components of special education programs and services shall be provided in accordance with this part unless a waiver for providing a component or providing a component in the manner prescribed by this part is approved by the board.

(d) Nothing in this section shall be construed to exempt districts subject to this section from the requirement that special education programs and services shall be implemented in accordance with this

part by June 30, 1982.

56195.3. A district previously approved by the board for implementation of the Master Plan during fiscal year 1981–82 shall, by January 1, 1981, submit to the superintendent a transitional certificated and classified employee staffing plan. Such plan shall include all of the following:

(a) Demonstration of the availability of qualified certificated and classified employees to implement Master Plan programs and services.

(b) A description of district efforts to employ and train qualified certificated and classified employees.

(c) A schedule for completion of employment and training efforts.

56195.4. If a district that has been previously approved for implementation of the Master Plan during fiscal year 1981–82 chooses to implement the Master Plan during fiscal year 1980–81 pursuant to the option under which it was approved for implementation during fiscal year 1981–82, it shall notify the county superintendent and the superintendent by January 1, 1981.

56195.5. Special education services regions operating programs during fiscal year 1979–80 shall operate programs in fiscal year 1980–81 as specified in the existing approved local plan. Such entities shall, by October 1, 1980, submit to the board a plan for allocation of instructional personnel service units, support services, special transportation services, and regionalized services funds for fiscal year 1980–81.

56195.6. (a) If a district that has been previously approved for implementation of the Master Plan during fiscal year 1980–81, chooses to elect an option for fiscal year 1980–81 from those specified in Section 56170, that is different from that option under which the district was previously approved for implementation, it shall by September 1, 1980, so notify, and submit the proposed local plan to, the county office.

(b) Within 30 days of receipt of such notice and plan, the county office shall approve or disapprove such plan.

(1) If approved, the county office shall so notify the superintendent.

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. The district may immediately appeal such decision to the superintendent to overrule county office disapproval. The superintendent shall make a decision on the appeal within 30 days of receipt of the appeal.

(c) Pending decision by the county office and, if appropriate, the superintendent, programs shall be operated under the previously approved plan.

56195.7. If a district that is presently operating under the Master Plan or has been approved to implement the Master Plan chooses to elect an option for the 1981–82 fiscal year that is different from that option under which it is presently operating or under which it has

been approved for implementation, it shall notify the county superintendent and the superintendent by January 1, 1981.

56195.8. (a) For the 1980–81 fiscal year only, notwithstanding the provisions of this part, no district or county office shall receive apportionments for special education which amount to less than 1.09 times the amount of such apportionments received during fiscal year 1979–80 per unduplicated pupil in the 1979–80 fiscal year for the same number of pupils enrolled in special education programs and services in the 1979–80 fiscal year. Such apportionment for the 1979–80 fiscal year shall be reduced by the amounts, if any, included in the revenue limit for each district and county office for pregnant minors programs pursuant to Sections 42241.5 and 2551.3, respectively, and in the revenue limit for each district for instruction in the home and hospital for pupils with temporary physical disability pursuant to Section 42241.3. Programs and services for pupils enrolled in excess of fiscal year 1979–80 levels shall be funded in accordance with the provisions of this part.

(b) Apportionments to county offices pursuant to subdivision (a) shall be computed as follows:

(1) The sum of special education revenue limits for the 1979–80 fiscal year computed pursuant to subdivision (a) of Section 2550, as it read immediately prior to June 30, 1980, multiplied by 1.09.

(2) From the amount computed pursuant to paragraph (1), subtract the amount of property tax revenues for special education for the 1980–81 fiscal year, as computed pursuant to subdivision (c) of Section 2571.

(3) Divide the product computed pursuant to paragraph (2) by the number of unduplicated pupils receiving special education by the county office during the 1979–80 fiscal year.

(4) Multiply the quotient computed pursuant to paragraph (3) by the number of unduplicated pupils receiving special education from the county office in the 1980–81 fiscal year, not to exceed the number of unduplicated pupils receiving special education from the county office in the 1979–80 fiscal year.

56195.9. In the case of a special education services region which received state aid for approved enrollment in special education programs which was less than the actual special education enrollment of such region, as reported on February 1, 1980, the superintendent shall apportion in the 1980–81 fiscal year an amount equal to the difference between the state aid received for approved enrollment and the state aid that should have been received for actual enrollment. In no case shall such adjustment cause the state-aided enrollment to exceed 11 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, for such region. Such region shall include within its budget plan, submitted pursuant to subdivision (e) of Section 56200, the adjustment received pursuant to this section.

56196. For the 1980–81 fiscal year, school districts and county offices previously approved for implementation of the Master Plan

during the fiscal year 1980–81 or 1981–82 shall be exempt from complying with subdivision (c) of Section 56368.

56197. This chapter shall remain in effect only until July 1, 1982, and as of such date is repealed unless a later enacted statute which is chaptered before July 1, 1982, deletes or extends such date.

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN

Article 1. State Requirements

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with Public Law 94-142, Section 504 of Public Law 93-112, and the provisions of this part.

(b) Description of services to be provided by each district and county office. Such description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) Description of the governance and administration of the plan.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56170, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into such agreements pursuant to subdivision (b) or (c) of Section 56170.

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating such services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education services region, or county office, as appropriate. The annual budget plan may be revised during the fiscal year, and such revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, such revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct such review prior to submission of the plan to the superintendent.

(g) Description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

Article 2. Local Requirements

56220. In addition to the provisions required to be included in the local plan pursuant to Section 56200, each special education services region that submits a local plan pursuant to subdivision (b) of Section 56170 and each county office that submits a local plan pursuant to subdivision (c) of Section 56170 shall develop written agreements to be entered into by entities participating in the plan. Such agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300).

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(c) Regionalized services to local programs, including, but not limited to, all the following:

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies which are funded to serve individuals with exceptional needs.

56221. (a) Each entity providing special education under this part shall adopt policies for the programs and services it operates, consistent with agreements adopted pursuant to subdivision (b) or (c) of Section 56170, or Section 56220. Such policies need not be submitted to the superintendent.

(b) Such policies shall include, but not be limited to, all of the following:

(1) Nonpublic, nonsectarian services, including those provided pursuant to Sections 56365 and 56366.

(2) Review, at a regular education teacher's request, of the assignment of an individual with exceptional needs to his or her class. Such procedures shall indicate which personnel are responsible for such reviews and a timetable for completion of the review.

(3) Procedural safeguards pursuant to Chapter 5 (commencing

with Section 56500).

(4) Resource specialists pursuant to Section 56362.

(c) Such policies may include, but are not limited to, provisions for involvement of district governing board members in any due process hearing procedure activities conducted pursuant to, and consistent with, state and federal law.

Article 3. Staff Development

56240. Staff development programs shall be provided for regular and special education teachers, administrators, certificated and classified employees, volunteers, community advisory committee members and, as appropriate, members of the district and county governing boards. Such programs shall be coordinated with other staff development programs in the district, special education services region, or county office, including school level staff development programs authorized by state and federal law.

56241. Staff development programs shall include, but not be limited to, all the following:

(a) Provision of opportunities for all school personnel, paraprofessionals, and volunteers to participate in ongoing development activities pursuant to a systematic identification of pupil and personnel needs.

(b) Be designed and implemented by classroom teachers and other participating school personnel, including the school principal. Teachers shall comprise the majority of any group designated to design local staff development programs for instructional personnel to be established pursuant to this part. Positive efforts shall be made to ensure the individuals with exceptional needs and parents of such individuals are involved in the design and implementation of staff development programs.

(c) Allowance for diversity in development activities, including, but not limited to, small groups, self-directed learning, and systematic observation during visits to other classrooms or schools.

(d) Scheduling of time which is set aside for such purpose throughout the school year, including, but not limited to, time when participating school personnel are released from their regular duties.

(e) Evaluation and modification on a continuing basis by participating school personnel with the aid of outside personnel, as necessary.

(f) Inclusion of the school principal and other administrative personnel as active participants in one or more staff development activities implemented pursuant to this chapter.

(g) Provision of a budget for reasonable and necessary expenses, relating to staff development programs.

56242. A district, special education services region, or county office, shall receive its full average daily attendance apportionment during the regular school year to conduct staff development programs pursuant to this article. Such time shall not exceed two

days each year for each participating staff member. However, no district, special education services region, or county office shall receive average daily attendance reimbursement under this section if it is reimbursed pursuant to Chapter 1147 of the Statutes of 1972, Chapter 3.1 (commencing with Section 44670) of Part 25, or Chapter 6 (commencing with Section 52000) of Part 28.

56243. Each district, special education services region, and county office shall ensure that all regular classroom teachers who provide services to individuals with exceptional needs receive the equivalent of at least one day of training each year relating to the needs of such individuals.

CHAPTER 4. IDENTIFICATION AND REFERRAL, ASSESSMENT, INSTRUCTIONAL PLANNING, IMPLEMENTATION, AND REVIEW

Article 1. Identification and Referral

56300. Each district, special education services region, or county office shall actively and systematically seek out all individuals with exceptional needs, ages 0 through 21 years, including children not enrolled in public school programs, who reside in the district or are under the jurisdiction of a special education services region or a county office.

56301. Each district, special education services region, or county office shall establish written policies and procedures for a continuous child-find system which addresses the relationships among identification, referral, assessment, planning, implementation, review, and the triennial assessment. Such policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs.

56302. Each district, special education services, region, or county office shall provide for the identification and assessment of an individual's exceptional needs, and the planning of an instructional program to best meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with school site procedures for referral of pupils with needs that cannot be met with modification of the regular instructional program.

56303. A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized.

Article 2. Assessment

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted in accordance with requirements including, but not limited to, all the following:

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

(b) Tests and other assessment materials meet all the following requirements:

(1) Are provided and administered in the pupil's native language or other mode of communication, unless the assessment plan indicates reasons why such provision and administration is not feasible.

(2) Have been validated for the specific purpose for which they are used.

(3) Are administered by trained personnel in conformance with the instructions provided by the producer of such tests and other assessment materials.

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(e) No single procedure is used as the sole criterion for determining an appropriate educational program for an individual with exceptional needs.

(f) The pupil is assessed in all areas related to the suspected disability including, where appropriate, health, vision, hearing, motor abilities, language function, general ability, academic performance, and social and emotional status. A developmental history is obtained, when appropriate.

56321. (a) Whenever an assessment for the development or revision of the individualized education program is to be conducted, including those requested by parents, the parent of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment. A copy of the notice of parent rights shall be attached to the assessment plan.

(b) The proposed assessment plan given to parents shall meet all the following requirements:

(1) Be in language easily understood by the general public.

(2) Be provided in the primary language of the parent or other

mode of communication used by the parent, unless to do so is clearly not feasible.

(3) Explain each type of assessment instrument to be administered, the purpose of the instrument, and the professional personnel responsible for the administration and interpretation of the instrument.

(4) Fully explain the facts which make an assessment necessary or desirable.

(5) State that no educational placement will result from the assessment without the consent of the parent except pursuant to subdivision (e) of Section 56506.

(c) No assessment shall be conducted unless the written consent of the parent is obtained prior to the assessment except pursuant to subdivision (e) of Section 56506. The parent shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision. Assessment may begin immediately upon receipt of such consent.

56322. (a) The assessment shall be made by a multidisciplinary group of persons, consistent with federal law and regulations. Such personnel shall include at least one teacher or specialist with knowledge in the area of the suspected disability, and if that teacher or specialist does not possess the necessary knowledge, at least one specialist qualified to conduct diagnostic examinations in the primary area of the suspected disability.

(b) Those persons assessing a pupil shall maintain a complete and specific record of diagnostic procedures employed, the instruments utilized, the conclusions reached, and the proposed education or treatment alternatives indicated by the assessment results.

56323. Admission of a pupil to special education instruction shall be made only in accordance with this article, Article 2.5 (commencing with Section 56333) and standards established by the board and upon a recommendation by the individualized education program team.

56324. (a) Any psychological assessment of pupils shall be made in accordance with Section 56320 and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed.

(b) Any health assessment of pupils shall be conducted by a credentialed school nurse or physician who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed.

56325. (a) Whenever a pupil transfers into a school district from a school district not operating programs under the same local plan in which he or she was last enrolled in a special education program, the administrator of a local program under this part may place the pupil in a comparable program for a period not to exceed 30 days. Such an interim placement may be made without complying with subdivision (a) of Section 56321.

(b) Before the expiration of the 30-day period, such interim placement shall be reviewed by the individual education program team and a final recommendation shall be made by the team in accordance with the requirements of this chapter. The team may utilize information, records, and reports from the school district or county program from which the pupil transferred.

56326. A pupil may be referred, as appropriate, for further assessment and recommendations to the California Schools for the Deaf and Blind or the Diagnostic Schools for Neurologically Handicapped Children.

56327. The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:

(a) Whether the pupil has a specific handicap.

(b) The basis for making the determination.

(c) The relevant behavior noted during the observation of the pupil in an appropriate setting.

(d) The relationship of that behavior to the pupil's academic and social functioning.

(e) The educationally relevant medical findings, if any.

(f) Whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.

(g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.

56328. Notwithstanding the provisions of this chapter, a district, special education services region, or county office may utilize a school site level and a regional level service, as provided for under Section 56336.2 as it read immediately prior to the operative date of this section, to provide the services required by this chapter.

56329. The parent of the pupil shall be provided with written notice that he or she may obtain, upon request, a copy of the findings of the assessment or assessments conducted pursuant to Section 56321. The notice shall include all the following:

(a) An individualized education program team conference, including the parent and his or her representatives, shall be scheduled, pursuant to Section 56341, to discuss the assessment, the educational recommendations, and the reasons for these recommendations.

(b) A parent has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, as defined by regulations of the board, if the parent disagrees with an assessment obtained by the public education agency.

However, the public education agency may initiate a due process hearing pursuant to Chapter 5 (commencing with Section 56500) to show that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent still has the right for an independent educational

assessment, but not at public expense.

If the parent obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the public education agency with respect to the provision of free, appropriate public education to the child, and may be presented as evidence at a due process hearing pursuant to Chapter 5 (commencing with Section 56500) regarding such child.

Article 2.5. Eligibility Criteria for Special Education and Related Services on the Basis of Speech and Language Impairment or Specific Learning Disabilities

56333. A pupil shall be assessed as having a speech or language impairment which makes him or her eligible for special education and related services when he or she demonstrates difficulty understanding or using spoken language to such an extent that it adversely affects his or her educational performance and cannot be corrected without special education and related services. In order to be eligible for special education and related services, difficulty in understanding or using spoken language must be assessed by a language, speech, and hearing specialist who determines that such difficulty results from any of the following disorders:

(a) Articulation disorders, such that the pupil's production of speech significantly interferes with communication and attracts adverse attention.

(b) Abnormal voice, characterized by persistent, defective voice quality, pitch, or loudness. An appropriate medical examination shall be conducted, where appropriate.

(c) Fluency difficulties which result in an abnormal flow of verbal expression to such a degree that these difficulties adversely affect communication between the pupil and listener.

(d) Inappropriate or inadequate acquisition, comprehension, or expression of spoken language such that the pupil's language performance level is found to be significantly below the language performance level of his or her peers.

(e) Hearing loss which results in speech or language impairments and significantly affects educational performance.

56337. A pupil shall be assessed as having a specific learning disability which makes him or her eligible for special education and related services when it is determined that all the following exist:

(a) A severe discrepancy exists between the intellectual ability and achievements in one or more of the following academic areas:

(1) Oral expression.
(2) Listening comprehension.
(3) Written expression.
(4) Basic reading skills.
(5) Reading comprehension.
(6) Mathematics calculation.
(7) Mathematics reasoning.

(b) The discrepancy is due to a disorder in one or more of the basic psychological processes and is not the result of environmental, cultural, or economic disadvantages.

(c) The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program.

Article 3. Instructional Planning and Individualized Education Program

56340. Each district, special education services region, or county office shall initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs.

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

(b) The individualized education program team shall include, but not be limited to, all the following:

(1) A representative designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil.

(2) The pupil's present teacher. If the pupil does not presently have a teacher, a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

(3) One or both of the pupil's parents, a representative selected by the parent, or both, pursuant to Public Law 94-142.

(4) When appropriate, the team shall also include:

(A) The individual with exceptional needs.

(B) Other individuals, at the discretion of the parent, district, special education services region, or county office.

(c) If the team is developing, reviewing, or revising the individualized education program of an individual with exceptional needs who has been assessed for the purpose of that individualized education program, the district, special education services region, or county office, shall ensure that a person is present at the meeting who has conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil and is familiar with the results of the assessment. Such person shall be qualified to interpret the results if the results or recommendations, based on such assessment, are significant to the development of the pupil's individualized education program and subsequent placement.

(d) For pupils with suspected learning disabilities or behavior disorders, at least one member of the individualized education program team, other than the pupil's regular teacher, shall be a person who has observed the pupil's educational performance in an appropriate setting. If the child is younger than four years and nine months or is not enrolled in a school, a team member shall observe

the child in an environment appropriate for a child of that age.

56342. The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, and make program placement recommendations.

56343. An individualized education program team shall meet whenever any of the following occur:

(a) A pupil has received a formal assessment.

(b) The pupil's placement or instruction, services, or both, as specified in the individualized educational program, is to be initiated, changed or terminated.

(c) The pupil demonstrates a lack of anticipated progress.

(d) The parent requests a meeting to develop, review, or revise the individualized education program.

(e) At least annually, to review the pupil's progress, the individualized education program, and the appropriateness of placement, and to make any necessary revisions.

56344. An individualized education program shall be developed within a total time not to exceed 50 days, not counting days in July and August, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an individualized education program shall be developed within 30 days after the commencement of the subsequent regular school year for each pupil for whom a referral has been made 20 days or less prior to the end of the regular school year.

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance.

(2) The annual goals, including short-term instructional objectives.

(3) The specific special educational instruction and services required by the pupil.

(4) The extent to which the pupil will be able to participate in regular educational programs.

(5) The projected date for initiation and the anticipated duration of such programs and services.

(6) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

(b) When appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For secondary grade level pupils, specially designed vocational education and career development, with emphasis on vocational training.

(2) For secondary grade level pupils, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for

graduation, in accordance with Section 51225.

(3) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

(4) Extended school year services when needed, as determined by the individualized education program team.

(5) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the school day.

(c) It is the intent of the Legislature in requiring individualized education programs that the district, special education services region, or county office is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

56345.5. Except as prescribed in subdivision (b) of Section 56324, nothing in this part shall be construed to authorize districts, special education services regions, or county offices to prescribe health care services.

56346. No pupil shall be required to participate in all or part of any special education program unless the parent is first informed, in writing, of the facts which make participation in the program necessary or desirable, and of the contents of the individualized education plan, and after such notice, consents, in writing, to all or part of the individualized education program. If the parent does not consent to all the components of the individualized education program, then those components of the program to which the parent has consented may be implemented so as not to delay providing instruction and services to the pupil. Components to which the parent has not consented may become the basis for a due process hearing pursuant to Chapter 5 (commencing with Section 56500). The parent may withdraw consent at any time after consultation with a member of the individualized education program team and after he or she has submitted written notification to an administrator.

Article 4. Implementation

56360. Each district, special education services region, or county office shall ensure that a continuum of program options is available to meet the needs of individuals with exceptional needs for special education and related services.

56361. The continuum of program options shall include all of the following:

(a) A resource specialist program pursuant to Section 56362.

(b) Designated instruction and services pursuant to Section 56363.

(c) Special classes and centers pursuant to Section 56364.

(d) Nonpublic, nonsectarian school services pursuant to Section 56365.

(e) State special schools pursuant to Section 56367.

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission for Teacher Preparation and Licensing, and who has demonstrated the competencies for a resource specialist, as established by the Commission for Teacher Preparation and Licensing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. The average caseload for resource specialists shall be no more than 24 pupils, and no resource specialist shall have a caseload which exceeds 28 pupils.

(d) Each resource specialist shall be provided with one or more instructional aides.

(e) Resource specialists shall not be assigned to teach regular classes.

(f) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

56362.5. By September 1980, the Commission for Teacher Preparation and Licensing shall adopt rules and regulations for a resource specialist certificate of competence. The certificate shall provide all the following:

(a) Definition of the competencies required of a resource specialist.

(b) Provision for a system of direct application to the commission

for a certificate of competence for each teacher who satisfies both of the following criteria:

(1) Served successfully as a resource specialist in a district which operated special education programs pursuant to Chapter 2 (commencing with Section 56300) of Part 30 as it read immediately prior to the operative date of this section or as part of an innovative program established by a district or county office under the provisions of Section 56020 as it read immediately prior to the operative date of this section, for two years prior to June 30, 1980, as verified by a district, special education services region, county office, or an institution of higher education.

(2) Hold a valid special education credential other than an emergency credential.

(c) Provision for the issuance, for up to three years, of a preliminary nonrenewable certificate of competence for the resource specialist, and adoption of the standards for the issuance and continuing validity of such a certificate.

(d) Establishment of a system for verification of competencies through both of the following:

(1) Commission of Teacher Preparation and Licensing approved institution of higher education resource specialist certificate program.

(2) Commission of Teacher Preparation and Licensing approved competency assessment panels for resource specialist certification.

(e) Cooperation with the department in implementing these provisions.

56363. (a) Designated instruction and services as specified in the individualized education program shall be available. Such instruction and services shall be provided by the regular class teacher, the special class teacher, or the resource specialist if the teacher or specialist is competent to provide such instruction and services and if the provision of such instruction and services by the teacher or specialist is feasible. If not, the appropriate designated instruction and services specialist shall provide such instruction and services. Designated instruction and services shall meet standards adopted by the board.

(b) These services may include, but are not limited to, the following:

(1) Language and speech development and remediation.

(2) Audiological services.

(3) Mobility instruction.

(4) Instruction in the home or hospital.

(5) Adaptive physical education.

(6) Physical and occupational therapy.

(7) Vision services and therapy.

(8) Specialized driver training instruction.

(9) Counseling and guidance.

(10) Psychological services other than assessment and development of the individualized education program.

(11) Parent counseling and training.
(12) Health-nursing services.
(13) Social worker services.

56364. Special classes and centers which enroll pupils with similar and more intensive educational needs shall be available. Such classes and centers shall enroll such pupils when the nature or severity of the disability precludes their participation in the regular school program for a majority of a schoolday. Special classes and centers and other removal of individuals with educational needs from the regular education environment shall occur only when the nature or severity of the handicap is such that education and regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals and recess periods, each public agency shall ensure that each individual with exceptional needs participates in those services and activities with nonhandicapped pupils to the maximum extent appropriate to the needs of the individual with exceptional needs. Special classes and centers shall meet standards adopted by the board.

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic agencies shall be available. Such services shall be provided under contract with the district, special education services region, or county office to provide the appropriate special facilities or services required by the individual with exceptional needs when no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education services region, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) The district, special education services region, or county office shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(d) Before contracting with a nonpublic, nonsectarian school outside of the the State of California, every effort shall be made by the district, special education services region, or county office to utilize public schools, or to locate an appropriate nonpublic, nonsectarian school program within the state.

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school shall be maintained and continued as an alternative special education service available to districts, special education services regions, and county offices, and parents.

(a) The contract for nonpublic, nonsectarian school services shall be developed in accordance with the following provisions:

(1) The contract shall specify the administrative and financial agreements between the nonpublic, nonsectarian school and the district, special education services region, or county office to provide the services included in the pupil's individualized education program. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) The contract shall be negotiated for the length of time for which nonpublic, nonsectarian school services are specified in the pupil's individualized education program.

Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract the parent, nonpublic, nonsectarian school, or district, special education services region, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the contract which do not alter the educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school and the district, special education services region, or county office.

(3) The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(4) The nonpublic, nonsectarian school shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school and the district, special education services region, or county office agree otherwise in the contract.

(b) (1) If the pupil is enrolled in the nonpublic, nonsectarian school with the approval of the district, special education services region, or county office prior to agreement to a contract, the district, special education services region, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the contract has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall develop a contract which shall be binding upon both parties.

(c) No contract for nonpublic, nonsectarian school services or licensed children's institution services shall be authorized under this part unless such school or institution has been certified as meeting those standards relating to the required special education services and facilities for individuals with exceptional needs. The certification shall result in the school's or institution's receiving approval to educate pupils under this part for a period no longer than five years from the date of such approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the board. The school or institution shall be charged a reasonable sum for this certification. In addition to those standards adopted by the board, the school or institution shall meet all applicable standards relating to fire, health, sanitation, and building safety.

56367. State special schools, pursuant to Sections 59020, 59120, and 59220, shall be considered as a referral for placement of individuals with exceptional needs upon the recommendation of the individualized education program team.

56368. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized indepth knowledge in preschool handicapped, career vocational development, or one or more areas of major handicapping conditions.

(b) A program specialist shall do all the following:

(1) Observe, consult with, and assist resource specialists, designated instruction and services instructors, and special class teachers.

(2) Plan programs, coordinate curricular resources, and evaluate effectiveness of programs for individuals with exceptional needs.

(3) Participate in each school's staff development, program development, and innovation of special methods and approaches.

(4) Provide coordination, consultation and program development primarily in one specialized area or areas of his or her expertise.

(5) Be responsible for assuring that pupils have full educational opportunity regardless of the district of residence.

(c) At least one program specialist shall be provided for every 560 individuals with exceptional needs served by a district, special education services region, or county office.

(d) For purposes of Section 41403, a program specialist shall be considered a pupil services employee, as defined in subdivision (e) of Section 33150.

56369. (a) A district, special education services region, or county office, may contract with another public agency to provide special education or related services to an individual with exceptional needs.

(b) Nothing in this article shall be construed to prohibit a district, special education services region, or county office from contracting with another public agency to provide special education or related

services to an individual with exceptional needs.

Article 5. Review

56380. (a) The district, special education services region, or county office shall maintain procedures for conducting, on at least an annual basis, reviews of all individualized education programs. The procedures shall provide for the review of the pupil's progress and the appropriateness of placement, and the making of any necessary revisions.

(b) The district, special education services region, or county office shall annually notify, in writing, parents of their right to request a review by the individualized education program team.

(c) Each individualized education program review shall be conducted in accordance with the notice and scheduling requirements for the initial assessment.

(d) Individuals with exceptional needs placed in a resource specialist program by an individualized education program team for more than one year shall receive at least health and psychological screening at some time during the second year to determine if a further psychological assessment, health assessment, or both, are necessary.

56381. A reassessment of the pupil, based upon procedures specified in Article 2 (commencing with Section 56320) shall be conducted at least every three years or more frequently, if conditions warrant, or if the pupil's parent or teacher requests a new assessment and a new individualized education program to be developed.

CHAPTER 5. PROCEDURAL SAFEGUARDS

56500. As used in this chapter, "public education agency" means a district, special education services region, or county office, depending on the category of local plan elected by the governing board of a school district pursuant to Section 56170, or any other public agency providing special education or related services.

56501. (a) The due process hearing procedures prescribed by this chapter extend to the pupil, the parent, and the public education agency involved in any decisions regarding a child under any of the following circumstances, and the pupil, the parent, and the public education agency involved may initiate the due process hearing procedures prescribed by this chapter under any of the following circumstances:

(1) There is a proposal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child.

(2) There is a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child.

(3) The parent refuses to consent to an assessment of the child or

to the individualized education program for the child. The public education agency may initiate due process hearing procedures to determine whether a child be assessed, placed, or have his or her individualized education program implemented without parental consent.

(b) The due process hearing procedures prescribed by this chapter include, but are not limited to, all the following:

(1) The right to a mediation conference pursuant to Sections 56502 and 56503.

(2) The right to examine pupil records pursuant to Section 56504. This provision shall not be construed to abrogate the rights prescribed by Chapter 6.5 (commencing with Section 49060) of Part 27.

(3) The right to a fair and impartial administrative hearing at the state level, before a person knowledgeable in the laws governing special education and administrative hearings, under contract with the department, pursuant to Section 56505.

56502. (a) All requests for a due process hearing shall be filed with the superintendent. The party initiating a due process hearing by filing a written request with the superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the superintendent. Within three days following receipt by the public education agency of a copy of such request, the public education agency shall advise the parent of free or low-cost services and other relevant services available within the geographical area. The superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation conducted pursuant to Section 56503, and a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56503 or 56505.

(b) Notwithstanding any procedure set forth in this chapter, a public education agency and a parent may, if the party initiating the hearing so chooses, meet informally to resolve any issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free, appropriate public education to the child, to the satisfaction of both parties prior to the mediation conference. The informal meeting shall be conducted by the superintendent or director of the public education agency or his or her designee. Any designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

(c) Upon receipt by the superintendent of a written request by the parent or public education agency, the superintendent or his or her designee or designees shall immediately notify, in writing, both parties of the request for the hearing and the proposed date for the mediation conference. The notice shall advise both parties of all their rights relating to procedural safeguards, including the right to waive the mediation conference. The superintendent shall inform the public education agency of its responsibility to advise the parent of

free or low cost legal services and other relevant services available within the geographical area within three days.

56503. (a) It is the intent of the Legislature that the mediation conference be an intervening, informal process conducted in a nonadversarial atmosphere.

(b) The mediation conference shall be conducted prior to holding the administrative due process hearing pursuant to Section 56505, unless either party waives the mediation conference. The conference shall be completed within 15 days of receipt by the superintendent of the request for the hearing. Either party to the mediation conference may request the superintendent or his or her designee to grant a continuance. Such a continuance shall be granted upon a showing of good cause. Any continuance shall not extend the 45-day maximum for completion of the due process hearing and rendering of the final administrative decision, unless the party initiating the request for the hearing is agreeable to such an extension. Such continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(c) The parent shall have the right, pursuant to Section 56504, to examine and receive copies of any documents contained in the child's file, maintained by the public education agency, prior to the date set for the mediation conference. The parent may be accompanied by a representative or representatives that he or she has chosen.

(d) Based upon the mediation conference, the superintendent or director of the public education agency, or his or her designee, may resolve the issue or issues. However, such resolution shall not conflict with state or federal law and shall be to the satisfaction of both parties.

(e) If the mediation conference fails to resolve the issues to the satisfaction of both parties, a state-level hearing pursuant to Section 56505 shall be held.

(f) If the mediation conference fails to resolve the issues to the satisfaction of both parties, the mediator shall list any unresolved issues. A list of unresolved issues shall be reviewed and approved by the party initiating the hearing. These unresolved issues shall be the basis for the state level hearing, prescribed by Section 56505.

(g) The mediation conference shall be conducted in accordance with regulations adopted by the board and shall be conducted by the superintendent or his or her designee.

(h) Any mediation conference held pursuant to this section shall be held at a time and place reasonably convenient to the parent and pupil.

56504. The parent shall have the right and opportunity to examine all school records of the child and to receive copies pursuant to this section and to Section 49069 within five days after such request is made by the parent, either orally or in writing. A public educational agency may charge no more than the actual cost of

reproducing such records, but if this cost effectively prevents the parent from exercising the right to receive such copy or copies the copy or copies shall be reproduced at no cost.

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the superintendent. Such hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department.

(b) Such hearing shall be held at a time and place reasonably convenient to the parent and the pupil.

(c) Such hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department.

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree otherwise.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 30 days following completion of the mediation conference or within 45 days from the receipt by the superintendent of the request for a hearing, if the mediation conference is waived. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. Such continuance shall be granted upon a showing of good cause. Any continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(g) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(h) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction.

56506. In addition to the due process hearing procedures enumerated in subdivision (b) of 56501, the following due process rights extend to the pupil and the parent:

(a) Written notice to the parent of his or her rights in language easily understood by the general public and in the primary language of the parent or other mode of communication used by the parent, unless to do so is clearly not feasible.

(b) The right to initiate a referral of a child for special education services pursuant to Section 56303.

(c) The right to obtain an independent educational assessment pursuant to subdivision (b) of Section 56329.

(d) The right to participate in the development of the individualized education program and to be informed of the availability under state and federal law of free appropriate public education and of all available alternative programs, both public and nonpublic.

(e) Written parental consent pursuant to Section 56321 shall be obtained before any assessment of the pupil is conducted and before the pupil is placed in a special education program unless the public education agency prevails in a due process hearing relating to such assessment or placement.

CHAPTER 6. EVALUATION, AUDITS, AND INFORMATION

56600. It is the intent of the Legislature to provide for ongoing comprehensive evaluation of special education programs authorized by this part. The Legislature finds and declares that the evaluation of these programs shall be designed to provide the Legislature, the State Board of Education, the Department of Education, and program administrators at county, district, and school levels with the information necessary to refine and improve policies, regulations, guidelines, and procedures on a continuing basis, and to assess the overall merits of these efforts.

56601. Each district, special education services region, or county office shall submit to the superintendent at least annually a report in a form and manner prescribed by the superintendent. Such reports shall include that information necessary for the superintendent to carry out the responsibilities prescribed by Section 56602 and such other statistical data, program descriptions, and fiscal information as the superintendent may require.

56602. In accordance with a program evaluation plan adopted pursuant to subdivision (e) of Section 56100, the superintendent shall submit to the board, the Legislature, and the Governor, an annual evaluation of the special education programs implemented under this part. This evaluation shall:

(a) Utilize existing information sources including fiscal records, child counts, other descriptive data, and program reviews to gather ongoing information regarding implementation of programs authorized by this chapter.

(b) Utilize existing information to the maximum extent feasible to conduct special evaluation studies of issues of statewide concern. Such studies may include, but need not be limited to, all of the

following:

(1) Pupil performance.

(2) Placement of pupils in least restrictive environments.

(3) Degree to which services identified in individualized education programs are provided.

(4) Parent, pupil, teacher, program specialist, resource specialist, and administrator attitudes toward services and processes provided.

(c) Summarize and report on the results of special studies regarding the Master Plan for Special Education performed pursuant to Section 33406.

(d) Identify the numbers of individuals with exceptional needs, their racial and ethnic data, their classification by designated instructional services, research specialist, special day class or center, and nonpublic, nonsectarian schools, in accordance with criteria established by the board and consistent with federal reporting requirements.

(e) Examine program costs, including, but not limited to, all of the following:

(1) Expenditures for instructional personnel services, support services, special transportation services, and regionalized services.

(2) Capital outlay costs at the district and school levels, and for special education services regions, county offices, state special schools, and nonpublic nonsectarian schools.

(3) Funding sources at the district, special education services region, county office, state special school, and nonpublic, nonsectarian school levels.

56603. The Department of Education shall, as part of the annual evaluation, report the information necessary to refine and improve statewide policies, regulations, guidelines, and procedures developed pursuant to this part.

56604. (a) The superintendent shall coordinate the design of school, district, state, and independent evaluations to prevent duplication and to minimize data collection and reporting requirements at the school and district levels.

(b) The Department of Education and the independent evaluator shall utilize sampling procedures whenever feasible.

56605. The superintendent shall periodically sponsor or conduct workshops and seminars for the education of district or county personnel assigned to, and responsible for, the evaluation of local special education programs.

56606. The superintendent shall provide for onsite program and fiscal reviews of the implementation of plans approved under this part. In performing such reviews and audits, the superintendent may utilize the services of persons outside of the department chosen for their knowledge of special education programs. Each district, special education services region, or county office shall be reviewed at least once during the period of approval of its local plan.

56607. (a) The Department of Education shall contract for an independent evaluation of the programs established pursuant to this

part to be conducted through January 31, 1982.

(b) Such evaluation shall contain, but need not be limited to, annual and longitudinal information from a sampling of districts and schools relating to the implementation, benefits, consequences, and costs of these programs; and, to the extent possible, attention to changes in the implementation of special education programs resulting from the operation of this part.

(c) The independent evaluator shall have expertise in evaluation. Selection of the independent evaluator, and the design and scope of the evaluation, shall be subject to approval by the Legislative Analyst and the Department of Finance. The evaluator shall submit annually a report to the Legislature and the Governor.

56608. (a) The department shall, by March 15, 1981, review the existing data and research relating to provision of special education and related services to individuals with exceptional needs between the ages of three years and four years and nine months. Such review shall include, but not be limited to, all the following:

(1) Long-term effects of provision of special education and related services to children in these age groups as compared to children with similar handicaps who do not receive such early intervention.

(2) The cost effectiveness of early intervention.

(b) The Legislative Analyst shall review the design and scope of this review prior to the department's performing such review.

56609. The Legislative Analyst shall submit a report to the Legislature on June 1, 1981, 1982, and 1983, relating to all of the following:

(a) Audits conducted pursuant to Section 56735.

(b) Reduction of the local general fund contribution pursuant to Section 56755.

(c) Implementation of service proportions specified in Section 56760.

(d) Disposition of requests for waivers of service proportions submitted pursuant to Section 56761.

(e) Implementation of special transportation provisions specified in Article 8 (commencing with Section 56770) of Chapter 7.

CHAPTER 7. FUNDING OF SPECIAL EDUCATION PROGRAMS

Article 1. State Aid Apportionments

56700. In fiscal year 1980–81 and in each fiscal year thereafter all apportionments to districts, special education services regions, and county offices for special education programs and services shall be computed pursuant to this chapter.

56701. The superintendent shall apportion funds for instructional personnel services, support services, and transportation services from Section A of the State School Fund directly to districts and county offices in accordance with the annual budget plan submitted

pursuant to subdivision (e) of Section 56200, unless the plan specifies an alternative recipient.

56702. The superintendent shall apportion funds for regionalized services from Section A of the State School Fund to the administrative entity specified in the local plan to receive and distribute such funds. Upon receipt, each entity shall distribute the funds in accordance with the allocation plan adopted pursuant to subdivision (e) of Section 56200.

Article 2. Computation of State Aid

56710. The county superintendent shall compute, pursuant to this article, apportionments for state aid for special education programs and services for each district or county office operating special education programs and services.

56711. The county superintendent shall compute for each district and county office the sum of all the following:

(a) Instructional personnel services amount pursuant to Article 3 (commencing with Section 56720).

(b) Support services amount pursuant to Article 4 (commencing with Section 56730).

(c) Amount for pupils in nonpublic, nonsectarian schools pursuant to Article 5 (commencing with Section 56740).

56712. From the sum computed pursuant to Section 56711 the county superintendent shall subtract all the following:

(a) The revenue limit amounts for pupils in special day classes and centers in each district or county office.

(b) Applicable special education federal funds received by each district or county office.

(c) The local general fund contribution for special education computed pursuant to Article 6 (commencing with Section 56750).

(d) The property taxes allocated to special education programs pursuant to Section 2572.

56713. (a) The amount computed pursuant to Section 56712 shall be apportioned as state aid. Commencing with the 1980–81 fiscal year and each fiscal year thereafter, state aid shall be apportioned as part of the apportionments prescribed by Sections 41330, 41332, and 41335.

(b) If this part does not become operative before July 15, 1980, advance apportionments for programs pursuant to this part shall be made as early as practicable in the 1980–81 fiscal year. Thereafter, the apportionments shall be made as prescribed in subdivision (a).

56714. The superintendent shall adopt rules and regulations for the implementation of this chapter.

Article 3. Instructional Personnel Services

56720. The county superintendent shall compute, pursuant to this article, instructional personnel services amounts for each district

and county office operating special education programs and services.

56721. Each district or county office shall submit to the county superintendent its 1979–80 average salaries and benefits paid for providing special education services, based on the regular school year, for the following instructional personnel:

(a) Special class teachers.

(b) Resource specialists; or for entities that did not operate under the Master Plan during fiscal year 1979–80, learning disability group teachers; or for entities that operated partially under the Master Plan during fiscal year 1979–80, resource specialists, and learning disability group teachers.

(c) Certificated specialists providing designated instruction and services.

(d) (1) Special education instructional aides for special classes and centers, and resource specialists.

(2) Average salaries and benefits for such aides for the purpose of this section only shall be the greater of the district's or county office's:

(A) Average salary and benefits for a full-time equivalent special education instructional aide.

(B) Average annual salaries and benefits for six hours of special education instructional aide time.

56722. For each district or county office, the county superintendent shall compute an instructional personnel cost unit rate based on the 1979–80 costs submitted pursuant to Section 56721 for each of the following instructional personnel services:

(a) Special classes and centers with one special class teacher, using the amount computed pursuant to subdivision (a) of Section 56721.

(b) Special classes and centers with one special class teacher and one instructional aide, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(c) Special classes and centers with one special class teacher and two instructional aides, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(d) Resource specialist programs with one resource specialist and one instructional aide, using the amounts computed pursuant to subdivisions (b) and (d) of Section 56721.

(e) Certificated specialists providing designated instruction and services, using the amount computed pursuant to subdivision (c) of Section 56721. For the purpose of this subdivision, four classified employees providing designated instruction and services shall be counted as one certificated specialist.

56723. For fiscal year 1980–81 the county superintendent shall multiply the unit rates computed pursuant to Section 56722 by 1.09. Commencing with fiscal year 1981–82 and each fiscal year thereafter, the unit rates shall be increased by the statewide average percentage inflation adjustment computed for unified school district revenue limits.

56724. In the event a district or county office claims special education allowances for an instructional personnel service it did not

offer in 1979–80 and for which an instructional personnel cost unit rate was not computed, such district shall use the statewide average unit rate for the then current fiscal year for that instructional personnel service.

56725. For each of the instructional personnel services specified in Section 56722 for which funds have been budgeted pursuant to subdivision (e) of Section 56200, multiply the units of instructional personnel service computed pursuant to Section 56760 by the appropriate unit rate for the district or county office for the then current fiscal year.

56726. For each district and county office that operates an extended year program, which is required by statute, the following amount shall be computed:

(a) For special classes, excluding those funded under subdivision (b):

(1) Divide the number of days taught in extended session for special classes, not to exceed 30, by days taught in regular session, not to exceed 180.

(2) Multiply the quotient computed pursuant to paragraph (1) by the unit rate computed pursuant to subdivision (b) of Section 56722, as adjusted pursuant to Section 56723.

(3) Divide the enrollment in special classes as of the second week of extended session by 11; round up to the nearest whole number; and multiply by the product computed pursuant to paragraph (2).

(b) For special centers or classes for severely handicapped pupils, including, but not limited to, those assessed as autistic, severely emotionally disturbed, developmentally handicapped, deaf, blind, or severely mentally retarded:

(1) Divide the number of days taught in extended session for special classes or centers, not to exceed 55, by days taught in regular session, not to exceed 180.

(2) Multiply the quotient computed pursuant to paragraph (1) by the unit rate computed pursuant to subdivision (c) of Section 56722, as adjusted pursuant to Section 56723.

(3) Divide the enrollment in special classes or centers as of the second week of extended session by 7; round up to the nearest whole number; and multiply by the product computed pursuant to paragraph (2).

(c) For designated instruction and services for pupils in special classes during extended session:

(1) Divide the number of classes computed pursuant to paragraph (3) of subdivision (a) by 3; round up to the nearest whole number; and multiply that amount by the product computed by multiplying the quotient computed pursuant to paragraph (1) of subdivision (a) by the unit rate computed pursuant to subdivision (e) of Section 56722, as adjusted pursuant to Section 56723.

(2) Divide the number of classes computed pursuant to paragraph (3) of subdivision (b) by 3; round up to the nearest whole number; and multiply that amount by the product computed by multiplying

the quotient computed pursuant to paragraph (1) of subdivision (b) by the unit rate computed pursuant to subdivision (e) of Section 56722, as adjusted pursuant to Section 56723.

56727. The county superintendent shall compute the sum of the amounts computed pursuant to Sections 56725 and 57626.

56728. Notwithstanding subdivision (d) of Section 56760, state aid for instructional personnel service units shall not exceed the number of units actually in operation at the time of the second principal apportionment for the then current fiscal year.

Article 4. Support Services

56730. The county superintendent shall compute, pursuant to this article, a support services amount for each district and county office operating special education programs and services pursuant to this article.

56731. Each district and county office shall submit to the county superintendent the sum of salaries and benefits paid to instructional personnel, excluding substitute teachers, specified in Section 56721 for providing special education services, based on the regular school year, plus the sum of salaries and benefits paid to instructional personnel specified in Section 56721 for providing special education services for extended year programs during fiscal year 1979–80.

56732. Each district and county office shall submit to the county superintendent the adjusted operating costs for special education in fiscal year 1979–80. Adjusted operating costs shall be computed by reducing the total cost for special education reported by the district or county superintendent for fiscal year 1979–80 less the costs of special transportation, services provided by nonpublic, nonsectarian schools, pregnant minors programs, programs to provide instruction in the home or hospital for pupils with temporary physical disabilities, and, if appropriate, regionalized services, as enumerated in subdivision (c) of Section 56220.

56733. The county superintendent shall compute a support services quotient as follows:

(a) Subtract the sum computed pursuant to Section 56731 from the sum computed pursuant to Section 56732.

(b) Divide the amount computed pursuant to subdivision (a) by the sum computed pursuant to Section 56731.

56734. The support services amounts to each district and county office shall be the amount computed pursuant to Section 56727 multiplied by the quotient computed pursuant to Section 56733.

56735. (a) The superintendent shall conduct an audit or recommend for audit to the Controller districts or county offices whose 1979–80 fiscal year support services quotient exceeded 125 percent of the state average support services quotient, computed pursuant to subdivision (b), for comparably sized districts.

(b) The superintendent shall compute average support services quotients for the 1979–80 fiscal year for the following groups of

districts. As used in this section, "ADA" is the district's regular average daily attendance.

(1) Elementary districts of 100 or less units of ADA.

(2) Elementary districts with more than 100 and less than 901 units of ADA.

(3) High school districts with less than 301 units of ADA

(4) Unified districts with less than 1,501 units of ADA.

(5) Elementary districts with greater than 900 units of ADA.

(6) High school districts with more than 300 units of ADA.

(7) Unified districts with greater than 1,500 units of ADA.

(c) For purposes of this section, county offices shall be treated as districts within the meaning of paragraph (7) of subdivision (b).

Article 5. Nonpublic, Nonsectarian School Services

56740. The superintendent shall apportion to each district 70 percent of the cost of tuition in excess of the revenue limit and applicable federal funds for pupils enrolled in nonpublic, nonsectarian schools pursuant to Sections 56365 and 56366.

Article 6. Local General Fund Contribution

56750. The county superintendent shall compute, pursuant to this article, a local general fund contribution for special education for each district operating special education programs and services.

56751. (a) The county superintendent shall compute a total local general fund contribution for each district by subtracting from each district's total reported cost of operating special education programs and services for the 1979–80 fiscal year the sum of each district's state aid apportionments for special education, applicable federal funds, revenue limits for pupils in special classes and centers, and tuition earned by the district from operating special education programs for other districts and county offices during the 1979–80 fiscal year.

(b) The county superintendent shall compute an adjusted local general fund contribution amount for each district by subtracting the amount computed pursuant to paragraph (1) from the amount computed pursuant to paragraph (2).

(1) The sum of the district's state aid apportionments for special education, applicable federal funds, revenue limits for pupils in special classes and centers, and tuition earned by the district from operating special education programs for other districts and county offices, exclusive of such revenue earned for providing special transportation and earned on account of pregnant minors programs and programs to provide instruction in the home or hospital for pupils with temporary physical disabilities.

(2) The district's total reported cost of operating special education programs and services exclusive of the costs of providing special transportation and providing pregnant minors programs and instruction in the home or hospital for pupils with temporary

physical disabilities.

56752. (a) The amount computed pursuant to subdivision (a) of Section 56751 shall be divided by such district's second principal apportionment regular average daily attendance in fiscal year 1978–79.

(b) The amount computed pursuant to subdivision (b) of Section 56751 shall be divided by such district's second principal apportionment regular average daily attendance in the 1979–80 fiscal year.

56753. The amount computed pursuant to subdivision (b) of Section 56752 shall be multiplied by the second principal apportionment regular average daily attendance of such district for the then current fiscal year.

56754. The local general fund contribution for each district shall be the lesser of the amounts computed pursuant to subdivision (b) of Section 56751 or Section 56753.

Article 7. Service Proportions

56760. The annual budget plan, required by subdivision (e) of Section 56200, shall comply with the following proportions, unless a waiver is granted by the superintendent pursuant to Section 56761:

(a) The district, special education services region, or county office, shall estimate the pupils to be served in the subsequent fiscal year by instructional personnel service. Such estimate shall be computed as the ratio of pupils to be served by instructional personnel service to total enrollment of pupils in kindergarten and grades 1 to 12, inclusive, of the districts and county offices participating in the plan.

(1) The ratio of pupils served by instructional personnel service during the regular school year to total enrollment in kindergarten and grades 1 to 12, inclusive, shall not exceed 0.10.

(2) The ratio of pupils served by instructional personnel service to total enrollment in kindergarten and grades 1 to 12, inclusive, receiving a specific instructional service shall not exceed the following maximum proportions:

(A) For special classes and centers, 0.028.

(B) For resource specialist programs, 0.040.

(C) For designated instruction services, 0.042.

(b) The district, special education services region, or county office shall divide the amounts in paragraphs (1), (2), and (3) by the appropriate ratios computed pursuant to paragraph (2) of subdivision (a).

(1) For special classes and centers, 10 pupils.

(2) For resource specialist programs, 24 pupils.

(3) For designated instruction and services, 24 pupils.

(c) The district, special education services region, or county office shall divide the sum of the estimated total enrollments on October 1 of the subsequent fiscal year in kindergarten and grades 1 to 12,

inclusive, of each district and county office participating in the plan by each of the amounts computed pursuant to paragraphs (1), (2), and (3) of subdivision (b).

(d) The amounts computed pursuant to subdivision (b) shall be the authorized instructional personnel service units the state will fund for the district, special education services region, or county office in the then current year. The allocation of these instructional personnel service units shall be described in the annual budget plan.

(e) The number of units of instructional services funded pursuant to this article for a local plan shall not exceed for special classes and centers, an average of one teacher and one aide per special class or center actually operated at the time of the second principal apportionment for the then current fiscal year.

56761. (a) A district, special education services region, or county office may request, and the superintendent may waive, any of the proportions specified in Section 56760. Such waiver shall be granted only where compliance would create undue hardship, as follows:

(1) For special classes and centers: proximity of the district, special education services region, or county office to state hospitals, licensed children's institutions, foster care facilities, or other facility may increase the expected numbers of individuals with exceptional needs requiring placement in special classes and centers.

(2) For resource specialist programs and designated instruction and services: the district, special education services region, or county office has implemented the eligibility criteria, adopted by the board. Failure to grant the waiver may result in eligible pupils receiving inappropriate services.

(3) For the proportions specified in subdivision (b) of Section 56760: low pupil density in sparsely populated areas creates problems of distance and inaccesibility for the district, special education services region, or county office.

(b) A school district, county office, and, if appropriate, special education services region or other alternative administrative entity designated pursuant to Section 56170, may request a superintendent to waive one or more of the maximum unit proportions set forth in Section 56760. Such request shall demonstrate that the increased cost of exceeding the standard in one instructional setting is offset by savings in another instructional setting.

56762. The superintendent shall adopt rules and regulations to ensure that apportionments made pursuant to this chapter shall be paid on account of no more than 10 percent of the statewide enrollment in kindergarten and grades 1 to 12, inclusive, for the then current fiscal year.

Article 8. Special Transportation

56770. The superintendent shall apportion, pursuant to this article, funds for special transportation to districts and county offices.

56771. The superintendent shall compute the statewide average

costs of special transportation by type of vehicle and by average daily hours of vehicle operation.

56772. For each district, the superintendent shall reimburse 80 percent of the approved cost of special transportation for the preceding fiscal year. Such approved cost shall not exceed 125 percent of the statewide average costs of special transportation computed pursuant to Section 56771.

56773. For each county office, the superintendent shall reimburse the full approved cost of special transportation in the preceding fiscal year. Such approved cost shall not exceed 125 percent of the statewide average costs of special transportation computed pursuant to Section 56771.

Article 8.5. Licensed Children's Institutions

56775. For the 1980–81 fiscal year and for each fiscal year thereafter, the superintendent shall apportion to each county superintendent providing programs pursuant to Article 7 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of providing special education instruction, related services, or both, to pupils in licensed children's institutions, as funded pursuant to this chapter, and (2) the state and federal income received by the county superintendent for providing such programs. The sum of the excess cost plus any income from the state or federal government for such purposes shall not exceed the cost of providing special education and related services for such pupils, as determined by the superintendent.

Article 9. Program Specialists and Regionalized Services

56780. The superintendent shall apportion funds for program specialists as follows:

(a) For the 1980–81 fiscal year:

(1) For districts and county offices that did not operate under the Master Plan in the 1979–80 fiscal year, the superintendent shall multiply one-half of the total unduplicated pupil count in December 1980 in the local plan by sixty-three dollars ($63).

(2) For districts and county offices that operated under the Master Plan in the 1979–80 fiscal year, the superintendent shall multiply the total unduplicated pupil count in December 1980 in the local plan by sixty-three dollars ($63).

(b) Commencing with the 1981–82 fiscal year and each fiscal year thereafter, the superintendent shall multiply the total unduplicated pupil count in December of the then current fiscal year by sixty-three dollars ($63), as adjusted pursuant to Section 56782.

56781. The superintendent shall apportion funds for regionalized services, other than program specialists, as enumerated in subdivision (c) of Section 56220 by multiplying the total unduplicated pupil count in December of the then current fiscal year

in the local plan by thirty dollars ($30).

56782. Commencing with the 1981–82 fiscal year and in each fiscal year thereafter, the apportionments provided pursuant to Sections 56780 and 56781 shall be increased annually by a percentage equal to the average statewide inflation increase in district revenue limits.

Article 10. Deficit Funding

56790. If available funds are insufficient to permit full apportionments, the deficit shall be applied pursuant to this chapter.

56791. If state funds are insufficient to fully fund programs, the deficit shall be applied equally to all apportionments to all districts and county offices.

56792. If programs operated in accordance with a locally approved budget plan submitted pursuant to subdivision (e) of Section 56200 are in excess of those that are funded pursuant to Article 2 (commencing with Section 56710), Article 8 (commencing with Section 56770), and Article 9 (commencing with Section 56780), available funds shall be allocated by the superintendent on a pro-rata basis against all claims for funds by districts and county offices operating under that local plan, unless the plan specifies an alternative allocation mechanism.

Article 12. General Provisions

56820. Any facilities constructed or leased after July 1, 1981, for individuals with exceptional needs shall be designed and, if possible, located to achieve maximum possible interaction between individuals with exceptional needs and other pupils.

56821. The department shall include in its budget sufficient funds to make apportionments under this part and an amount sufficient for the administration by the department of the provisions of this part.

56822. Sound recordings, large type, and braille books purchased, instructional materials transcribed from regular print into special media, and special supplies and equipment purchased for individuals with exceptional needs for which state or federal funds were allowed are property of the state and shall be available for use by individuals with exceptional needs throughout the state as the board shall provide.

56823. Apportionments under this part shall be made by the superintendent as early as practicable in the fiscal year. Upon order of the superintendent, the State Controller shall draw warrants upon the money appropriated, in favor of the eligible districts or counties in the amounts ordered.

56824. Each district, special education services region, and county office participating in special education programs under this part shall maintain a fiscal effort with respect to each pupil participating in special education programs that is no less than the

fiscal effort of the district or county office per elementary, intermediate, or secondary pupil not participating in a special education program. The department shall annually review individual district and county office expenditures to assure the comparability of local support. This review shall be based on rules and regulations adopted by the board which take into account growth in district enrollment and increases in district costs.

56825. The department shall continuously monitor and review all special education programs approved under this part to assure that all funds appropriated to districts, special education services regions, and county offices under this part are expended for the purposes intended.

56826. Funds apportioned to districts, special education services regions, and county offices pursuant to this chapter shall be expended exclusively for programs operated under this part.

SEC. 10. Section 62000 of the Education Code is amended to read:

62000. The following educational programs shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program after the review prescribed in Section 62006:

(a) Termination date of June 30, 1981:

(1) Driver training.

(2) Instructional television.

(3) Environmental education.

(b) Termination date of June 30, 1982:

(1) Miller Unruh Basic Reading Act of 1965.

(2) Adult education.

(3) Career guidance centers.

(4) Demonstration programs in reading and mathematics.

(5) Instructional materials.

(6) Transportation.

(c) Termination date of June 30, 1983:

(1) School improvement program.

(2) Indian early childhood education.

(3) Professional development centers and staff development centers.

(4) Child care and preschool programs.

(5) Mentally gifted minor programs.

(6) Economic impact aid.

(d) Termination date of June 30, 1984:

(1) Urban impact aid.

(2) Bilingual education.

(3) Indian education centers.

(e) Termination date of June 30, 1985:

(1) Special education for individuals with exceptional needs.

SEC. 11. (a) For the 1980–81 fiscal year, there is hereby appropriated from the General Fund to Section A of the State School Fund, the amount of six hundred twenty-five million dollars ($625,000,000) to be allocated as follows:

(1) For the purposes of Article 2 (commencing with Section 56710) of Chapter 7 of Part 30 of the Education Code, five hundred twenty-five million nine hundred thousand dollars ($525,900,000), of which not more than three hundred fifty thousand dollars ($350,000) may be used for in-service training.

(2) For the purposes of Article 8 (commencing with Section 56770) of Chapter 7 of Part 30 of the Education Code, sixty-one million two hundred thousand dollars ($61,200,000).

(3) For the purposes of Article 9 (commencing with Section 56780) of Chapter 7 of Part 30 of the Education Code, twenty-seven million six hundred thousand dollars ($27,600,000).

(4) For the purposes of Section 56195.9 of the Education Code, ten million three hundred thousand dollars ($10,300,000).

(b) Any surplus in the funding prescribed for any of the purposes specified in paragraph (1), (2), or (3) of subdivision (a) may be used to offset any deficit in the funding prescribed for either or both of the other purposes.

SEC. 12. (a) There is hereby appropriated from the General Fund to the Department of Education for the 1980–81 fiscal year the sum of five hundred thousand dollars ($500,000) for the management and administration of the provisions of Chapter 7 (commencing with Section 56700) of Part 30 of the Education Code.

(b) There is hereby appropriated from the General Fund to the State Controller for the 1980–81 fiscal year the sum of three hundred thousand dollars ($300,000) for the purpose of conducting audits pursuant to Section 56735 of the Education Code.

SEC. 13. Of the funds appropriated pursuant to Item 352 of the Budget Act of 1980, the State Controller shall, on the operative date of this act, transfer to the unappropriated surplus of the General Fund two million six hundred thousand dollars ($2,600,000) of the funds appropriated in subitem (a) of Item 352 and fifty-seven million two hundred thousand dollars ($57,200,000) of the funds appropriated in subitem (b) of Item 352.

SEC. 14. (a) On the operative date of this act, the unencumbered balance of the funds appropriated pursuant to Item 335 of the Budget Act of 1980 shall revert to the unappropriated surplus of the General Fund.

(b) On the operative date of this act, the amounts appropriated by this act for purposes of Article 2 (commencing with Section 56710) of Chapter 7 of Part 30 of the Education Code shall be reduced by any amounts encumbered under Item 335 of the Budget Act of 1980 or encumbered under any other appropriation made for the purposes of funding special education for the 1980–81 fiscal year, other than those made by this act.

SEC. 15. Section 62000 of the Education Code, as amended by Section 2 of Assembly Bill 1265 of the 1979–80 Regular Session of the Legislature, is amended to read:

62000. The following educational programs shall cease to be operative on the date specified, unless the Legislature enacts

legislation to continue the program after the review prescribed in Section 62006:

(a) Termination date of June 30, 1981:

(1) Instructional television.

(2) Environmental education.

(b) Termination date of June 30, 1982:

(1) Miller-Unruh Basic Reading Act of 1965.

(2) Adult education.

(3) Career guidance centers.

(4) Demonstration programs in reading and mathematics.

(5) Instructional materials.

(6) Transportation.

(c) Termination date of June 30, 1983:

(1) School improvement program.

(2) Indian early childhood education.

(3) Professional development centers and staff development centers.

(4) Child care and preschool programs.

(5) Mentally gifted minor programs.

(6) Economic impact aid.

(d) Termination date of June 30, 1984:

(1) Urban impact aid.

(2) Bilingual education.

(3) Indian education centers.

(e) Termination date of June 30, 1985:

(1) Driver training.

(2) Special education for individuals with exceptional needs.

SEC. 16. It is the intent of the Legislature, if this bill and Assembly Bill No. 1265 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 62000 of the Education Code, and this bill is chaptered after Assembly Bill No. 1265, that Section 62000 of the Education Code, as amended by Section 2 of Assembly Bill No. 1265 be further amended on the operative date of this act in the form set forth in Section 15 of this act to incorporate the changes in Section 62000 proposed by this bill. Therefore, Section 15 of this act shall become operative only if this bill and Assembly Bill No. 1265 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 62000, and this bill is chaptered after Assembly Bill No. 1265, in which case Section 15 of this act shall become operative on the operative date of this act and Section 10 of this act shall not become operative.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that funds appropriated for special education purposes, as revised by this act, be available at the earliest possible time during the 1980–81 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 798

An act to amend Sections 8328, 8360, and 33420 of, and the heading of Chapter 2 (commencing with Section 8200) of Part 6 of, to amend and renumber the headings of Article 4 (commencing with Section 8320), Article 5 (commencing with Section 8360), and Article 7 (commencing with Section 8390) of, to add Article 1 (commencing with Section 8200), Article 2 (commencing with Section 8210), Article 3 (commencing with Section 8220), Article 4 (commencing with Section 8225), Article 6 (commencing with Section 8230), Article 7 (commencing with Section 8235), Article 8 (commencing with Section 8240), Article 9 (commencing with Section 8250), Article 10 (commencing with Section 8260), Article 11 (commencing with Section 8265), Article 12 (commencing with Section 8275), Article 13 (commencing with Section 8280), and Article 14 (commencing with Section 8285) to, and to repeal Article 1 (commencing with Section 8200), Article 2 (commencing with Section 8240), and Article 6 (commencing with Section 8381), Chapter 2 of Part 6 of, and to repeal Chapter 2.5 (commencing with Section 8400) of Part 6 of, the Education Code, relating to child care and development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. The heading of Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code is amended to read:

CHAPTER 2. CHILD CARE AND DEVELOPMENT SERVICES ACT

SEC. 1.5. Article 1 (commencing with Section 8200) of Chapter 2 of Part 6 of the Education Code is repealed.

SEC. 2. Article 1 (commencing with Section 8200) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 1. General Provisions

8200. This chapter shall be known and may be cited as the Child Care and Development Services Act.

8201. The purpose of this chapter is as follows:

(a) To provide a comprehensive, coordinated, and cost-effective system of child care and development services for children to age 14 and their parents, including a full range of supervision, health, and support services through full- and part-time programs.

(b) To encourage community-level coordination in support of child care and development services.

(c) To provide an environment that is healthy and nurturing for all children in child care and development programs.

(d) To provide the opportunity for positive parenting to take place through understanding of human growth and development.

(e) To reduce strain between parent and child in order to prevent abuse, neglect, or exploitation.

(f) To enhance the cognitive development of children, with particular emphasis upon those children who require special assistance, including bilingual capabilities to attain their full potential.

(g) To establish a framework for the expansion of child care and development services.

8202. It is the intent of the Legislature that:

(a) All families have access to child care and development services, through resource and referral services, where appropriate, regardless of ethnic status, cultural background, or special needs. It is further the intent that subsidized child care and development services be provided to persons meeting the eligibility criteria established under this chapter to the extent funding is made available by the Legislature and Congress.

(b) The healthy physical, cognitive, social, and emotional growth and development of children be supported.

(c) Families achieve and maintain their personal, social, economic, and emotional stability through an opportunity to attain financial stability through employment, while maximizing growth and development of their children, and enhancing their parenting skills through participation in child care and development programs.

(d) Community-level coordination in support of child care and development services be encouraged.

(e) Families have a choice of programs that allow for maximum involvement in planning, implementation, operation, and evaluation of child care and development programs.

(f) Planning for expansion of child care and development programs be based on ongoing local needs assessments.

(g) The Superintendent of Public Instruction, in providing funding to child care and development agencies, promote a range of services which will allow parents the opportunity to choose the type of care most suited to their needs. The program scope may include the following:

(1) Programs located in centers, family day care homes, or in the child's own home.

(2) Services provided part-day, full-day, and during nonstandard hours including weekend care, night and shift care, before and after school care, and care during holidays and vacation.

(3) Child care services provided for infants, preschool, and school-age children.

(h) The Superintendent of Public Instruction be responsible for the establishment of a public hearing process or other public input process that ensures the participation of those agencies directly

affected by a particular section or sections of this chapter.

8203. The Superintendent of Public Instruction shall develop standards for the implementation of quality programs. Indicators of quality shall include, but not be limited to:

(a) A physical environment that is safe and appropriate to the ages of the children and which meets applicable licensing standards.

(b) Program activities and services that are age appropriate and developmentally meet the needs of each child.

(c) Program activities and services that meet the cultural, linguistic, and other special needs of children and families being served.

(d) Family and community involvement.

(e) Parent education.

(f) Efficient and effective local program administration.

(g) Staff that possesses the appropriate and required qualifications or experience, or both.

The appropriate staff qualifications shall reflect the diverse linguistic and cultural make-up of the children and families in the child care and development program. The use of intergenerational staff shall be encouraged.

(h) Support services for children, families, and providers of care.

(i) Resource and referral services.

(j) Alternative payment services.

(k) Provision for nutritional needs of children.

(*l*) Social services that include, but are not limited to, identification of child and family needs and referral to appropriate agencies.

(m) Health services that include referral of children to appropriate agencies for services.

8204. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, it is the policy of this state that no child shall be hungry while in attendance in child care and development facilities as defined in Section 8208 and that child development facilities have an obligation to provide for the nutritional needs of children in attendance.

8205. It is the intent of the Legislature that in providing child development programs the Superintendent of Public Instruction give priority to children of families that qualify under applicable federal statutes or regulations as recipients of public assistance and other low-income and disadvantaged families. Federal reimbursement shall be claimed for any child receiving services under this chapter for whom federal funds are available.

8206. The Department of Education is hereby designated as the single state agency responsible for the promotion, development, and provision of care of children in the absence of their parents during the workday or while engaged in other activities which require assistance of a third party or parties.

8207. The Superintendent of Public Instruction may, pursuant to Section 204 of the Intergovernmental Cooperation Act of 1968,

request such waivers of single state agency requirements as are necessary in order to utilize available federal funds for the purposes of this chapter. Until such waiver is granted by the federal government, the single state agency authorized by federal law to provide any child care service provided for in this chapter shall have only such functions, duties, and responsibilities conferred by this chapter upon the Department of Education and the Superintendent of Public Instruction with respect to such child development services as are required by federal law and regulation. In such event, such single state agency shall provide child care and development services under a purchase of service agreement with the Superintendent of Public Instruction from funds appropriated for such services. The Superintendent of Public Instruction shall provide the necessary documents required by the federal government pursuant to this section to support the state's claim for federal reimbursement and shall certify that the school district, community college district, or other organization providing the care, has available the accounting records and other supporting documents to justify the claim for reimbursement and that such records are available for audit by the State Controller and by any authorized federal agency.

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of reimbursable expenditures by the minimum average daily enrollment level of service required.

(b) "Alternative payments" include payments which are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments which are made by an agency to a parent for the parent's purchase of child care and development services.

(c) "Applicant or operating agency" means a school district, community college district, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance", for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or which is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with

state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" are those which offer a full range of services for children from infancy to age fourteen, for any part of a day, by a public or private agency, in centers and family child care homes. Such programs include, but are not limited to, the following:

(1) Campus child care and development.

(2) General child care and development.

(3) Intergenerational child care and development.

(4) Migrant child care and development.

(5) School-age parenting and infant development.

(i) "Child care and development services" are those designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, resource and referral programs, and alternative payment arrangements.

(j) "Children at risk of abuse, neglect or exploitation" means children who are identified as such in a written referral from a legal, medical, or social service agency.

(k) "Children with special needs" include infants to the age of two; limited-English-speaking and non-English-speaking children; handicapped children; and children at risk of neglect, abuse, or exploitation.

(*l*) "Close-down costs" means reimbursements for all activities associated with the closing of operations at the end of each growing season.

(m) "Contracting agency" means a private nonprofit agency, private proprietary agency, family child care provider, school district, community college district, county superintendent of schools, county welfare department, county, city, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(n) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program

operational costs.

(o) The term "elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(p) "Group" means a cluster of children under the direct supervision of one or more caregivers.

(q) "Group size" means the total number of children assigned to one or more caregivers.

(r) "Handicapped children" means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, or orthopedically impaired, who require the special attention of adults in a child care setting.

(s) "Severely handicapped children" means children having a physical, mental, or emotional handicap of such severity that they cannot be adequately or appropriately served in a regular child care and development program, and who require the services of persons with some special training and experience.

(t) "Health services" includes, but is not limited to, the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the new state immunization form #1 to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Follow-up treatment through referral to appropriate health care agencies or individual health care professionals.

(u) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State Universities and Colleges, the California Community College Board of Governors, and the governing bodies of any private nonprofit institution of postsecondary education.

(v) "Intergenerational staff" means persons of various generations.

(w) "Limited English-speaking and non-English-speaking children" means children who are unable to benefit fully from an English-only child care and development program as a result of the following:

(1) Having used a language other than English when they first began to speak, or

(2) Having a language other than English predominantly or exclusively spoken at home.

(x) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(y) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(z) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(aa) "Respite care" means child care service provided for the prevention of child neglect, abuse, or exploitation.

(bb) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(cc) "Start-up costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(dd) "State preschool services" means part-day educational programs for low income or otherwise disadvantaged prekindergarten-age children.

(ee) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(ff) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(gg) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities which are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

SEC. 2.5. Article 2 (commencing with Section 8240) of Chapter 2 of Part 6 of the Education Code is repealed.

SEC. 3. Article 2 (commencing with Section 8210) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 2. Resource and Referral Programs

8210. Funds appropriated for the purpose of this chapter may be used for child care resource and referral programs which may be operated by public or private nonprofit entities.

8212. For purposes of this article, child care resource and referral programs, established to serve a defined geographic area, shall provide the following services:

(a) Identification of the full range of existing child care services through information provided by all relevant public and private agencies in the areas of service, and the development of a resource file of such services which shall be maintained and updated at least quarterly. These services shall include, but not be limited to, family day care homes, public and private day care programs, full-time and part-time programs, and infant, preschool, and extended care programs.

The resource file shall include, but not be limited to, the following information:

(1) Type of program.

(2) Hours of service.

(3) Ages of children served.

(4) Fees and eligibility for services.

(5) Significant program information.

(b) Establishment of a referral process which responds to parental need for information and which is provided with full recognition of confidentiality rights of parents. The referral process shall afford parents maximum access to all referral information. This access shall include, but is not limited to, telephone referral available for no less than 20 hours per week.

Each child care resource and referral agency shall publicize its services through all available media sources, agencies, and other appropriate methods.

(c) Maintenance of ongoing documentation of requests for service tabulated through the internal referral process. The following documentation of requests for service shall be maintained by all child care resource and referral agencies:

(1) Number of calls and contacts to the child care information and referral agency or component.

(2) Ages of children served.

(3) Time category of child care request for each child.

(4) Special time category, such as nights, weekends, and swing shift.

(5) Reason that the child care is needed.

This information shall be maintained in such a manner that it is easily accessible for dissemination purposes.

(d) Provision of technical assistance to existing and potential providers of all types of child care services. This assistance shall include, but not be limited to:

(1) Information on all aspects of initiating new child care services

including, but not limited to, licensing, zoning, program and budget development, and assistance in finding such information from other sources.

(2) Information and resources which shall help existing child care services providers to maximize their ability to serve the children and parents of their community.

(3) Dissemination of information on current public issues affecting the local and state delivery of child care services.

(4) Facilitation of communication between existing child care and child-related services providers in the community served.

Services prescribed by this section shall be provided in order to maximize parental choice in the selection of child care to facilitate the maintenance and development of child care services and resources.

8213. All child care resource and referral services shall be provided in a manner which is responsive to the diverse cultural, linguistic, and economic needs of a defined geographic area of service.

8214. Child care resources and referral shall be provided to all persons requesting services and to all types of child care providers, regardless of income level or other eligibility criteria. In addition to the services prescribed by this section, child care resource and referral may provide a wide variety of parent and provider support and educational services.

SEC. 4. Article 3 (commencing with Section 8220) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 3. Alternative Payment Programs

8220. Upon the approval of the Department of Education, funds appropriated for the purposes of this chapter may be used for alternative payment programs to allow for maximum parental choice. Various methods of reimbursement for parental costs for child care may be utilized. All payment arrangements shall conform to the eligibility criteria and the parent fee schedule established pursuant to Sections 8263 and 8265.

To provide for maximum parent choice, alternative payment programs may include the following:

(a) A subsidy that follows the family from one provider to another within a given alternative payment program.

(b) Choices, whenever possible, among hours of service including before and after school, evenings, weekends, and split shifts.

8220.5. To offer maximum support for parents and providers, alternative payment programs shall have access to resource and referral services. Funding shall be adequate to purchase care at the fee charged the private client for the same service as well as to provide locally designed support services for parents and providers. In communities where there are no resource and referral agencies, alternative payment programs shall provide the following support

services:

(a) Information for parents to assist them in making informed choices.

(b) Professional and technical assistance and information for providers.

(c) Parenting information.

8221. Alternative payments shall be made for services provided only in licensed centers and family child care homes, for care provided in the child's home, and for other types of care which conform to applicable law.

8222. Payments made by alternative payment programs shall be equal to the fee charged to full-cost families in each program. Alternative payment programs may expend more than the standard reimbursement rate for a particular child. However, the aggregate payments for services purchased by the agency during the contract year may not exceed the assigned reimbursable amount as established by the contract for the year.

Currently funded agencies making payments in excess of the fee charged to full-cost families shall come into compliance with this section by January 1, 1981.

This section does not preclude alternative payment programs from claiming at reimbursement-plus rates for services to children with special needs as provided in Section 8265.

8222.5. Alternative payment programs may provide payment to child care facilities with a majority of subsidized children under the provisions of this section if (a) there is a lack of licensed child care facilities in the area, (b) the facility is able to meet the special needs of a particular child, or (c) any other reason specified by the department's regulations. The department may authorize such payment upon request.

8223. The assigned reimbursement rate for alternative payment programs shall include the cost of child care plus the administrative cost of the alternative payment program.

8224. The audits for such facilities and agencies shall include a sampling of the evidence of fees paid by families of non-subsidized children, the average daily enrollment of subsidized and non-subsidized children, the average number of days of service provided to subsidized children, and the services provided to subsidized children pursuant to the terms of the contract.

SEC. 5. The heading of Article 4 (commencing with Section 8320) of Chapter 2 of Part 6 of the Education Code is amended and renumbered to read:

Article 15. Local Programs

SEC. 6. Article 4 (commencing with Section 8225) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 4. Campus Child Care and Development Programs

8225. (a) Notwithstanding any provision of law to the contrary, higher educational institutions may establish and maintain child development programs on or near their respective campuses. However, after June 30, 1981, community college district programs shall be subject to the rules and regulations adopted by the Superintendent of Public Instruction.

(b) Children of students of each campus operating a child development program shall have first priority for service in that program.

(c) The higher educational institutions may institutionalize child development programs on their respective campuses for the purpose of incorporating child development programs into the missions and functions of the respective campuses.

(d) The Superintendent of Public Instruction, in cooperation with higher educational institutions, shall establish rules and regulations governing programs operated pursuant to this section.

(e) It is the intention of the Legislature that a consortium composed of higher educational institutions be established by the institutions to improve communication and cooperation and to advise and assist the Superintendent of Public Instruction in the development of rules and regulations and policies and procedures affecting child care and development programs. The Superintendent of Public Instruction in cooperation with the consortium shall be responsible for ongoing communication with and dissemination of information to all campus child care and development agencies under contract with the State Department of Education.

SEC. 7. The heading of Article 5 (commencing with Section 8360) of Chapter 2 of Part 6 of the Education Code is amended and renumbered to read:

Article 16. Child Development Program Personnel Qualifications

SEC. 9. Article 6 (commencing with Section 8381) of Chapter 2 of Part 6 of the Education Code is repealed.

SEC. 10. Article 6 (commencing with Section 8230) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 6. Migrant Child Care and Development Programs

8230. The Superintendent of Public Instruction shall administer all migrant child care and development programs. In addition, the Superintendent of Public Instruction shall support and encourage the state-level coordination of all agencies that offer services to migrant children and their families and state-level coordination of existing health funds for migrants.

8231. (a) For the purpose of this article, a "migrant agricultural

worker family" means a family that has earned at least 50 percent of its income during the last 12 months from employment in fishing, agriculture, or agriculturally-related work.

(b) Children of migrant agricultural worker families shall be enrolled in child development programs on the basis of the following priorities:

(1) The family moves from place to place and is eligible for publicly subsidized migrant housing camps.

(2) The family has migrated within the past five years and has settled near agricultural areas and whose income is still dependent upon seasonal agricultural work.

(3) The family resides in a rural agricultural area and is dependent on seasonal agricultural work.

8232. The superintendent shall encourage migrant child care programs to include, and shall give priority to funding migrant child care agencies that include, the following components:

(a) Social services.

(1) Bilingual liaison between migrant parents and the center or family child care home, or both.

(2) Liaison between the agency and the relevant community agencies and organizations, including health and social services.

(3) Identification and documentation of family needs and follow-up referrals as appropriate.

(b) Training emphasis shall begin in the first year with priority for infant care-givers and administrative staff.

(c) Staffing.

(1) Bilingual health personnel shall be available to each program site of a migrant child care and development agency.

(2) Professional and nonprofessional staff shall reflect the linguistic and cultural background of the children being served.

(3) Whenever possible, migrants will be recruited, trained, and hired in child care and development programs. Documentation of training and career ladder opportunities and of recruitment and hiring efforts shall be provided to the Department of Education.

(d) Health services in migrant child care and development programs shall include health and dental screening, follow-up treatment, recording, and tracking for all children enrolled in migrant child care and development programs. These services shall be provided in a timely and adequate manner and the funds for health services and the health records shall follow the child. To achieve these ends, the State Department of Health Services and the Department of Education shall each delegate two members who shall meet at least monthly, beginning on July 1, 1980, for the following purposes:

(1) To research the problems currently preventing the timely delivery of the above services.

(2) To hold at least two well-publicized public hearings prior to January, 1982, in migrant rural areas to solicit testimony regarding mechanisms to effectively deliver health services to migrant

children in child care and development programs.

(3) To develop a plan to ensure state- and local-level coordination of health services, and to eliminate duplication of services for migrant children in child care and development programs.

(4) To report back to the Legislature by February 15, 1982, in a joint written report, on the problems affecting delivery of health services, on any improvement in the delivery of services, and with a plan to increase effective delivery of health services to migrant children in child care and development programs commencing with May 1, 1982.

8233. (a) To the extent possible, in the first year of expansion a minimum of one migrant infant care program shall be established in each publicly subsidized farm labor camp not providing infant care.

(b) Additional infant, preschool, and school-age migrant child care and development programs shall be established during the period in which the plan is implemented, with emphasis on out-of-camp programs.

(c) Cost for migrant programs may exceed the standard reimbursement rate established by the Superintendent of Public Instruction, if such excess cost is mutually agreed to in the contract with the Department of Education. In no case shall the reimbursement exceed the cost of the program.

(d) The Superintendent of Public Instruction shall annually reimburse seasonal migrant child care and development agencies for approvable start-up and close-down costs. Reimbursement for both start-up and close-down costs shall not exceed 15 percent of each such agency's total contract amount.

Seasonal migrant child care and development agencies shall submit reimbursement claims for start-up costs with their first monthly reports, and reimbursement claims for close-down costs with their final reports.

SEC. 11. The heading of Article 7 (commencing with Section 8390) of Chapter 2 of Part 6 of the Education Code is amended and renumbered to read:

Article 17. Infant Care and Development Services

SEC. 12. Article 7 (commencing with Section 8235) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 7. State Preschool Programs

8235. The Superintendent of Public Instruction shall administer all state preschool programs. They shall include, but not be limited to, part-day and preschool appropriate activities for prekindergarten children three to five years of age in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. Preschool programs for which federal reimbursement is not available

shall be funded as prescribed by the Legislature in the Budget Act, and unless otherwise specified by the Legislature, shall not utilize federal funds made available through Title XX of the Social Security Act.

Priority for receiving state preschool services shall be given to low income families who meet the eligibility standards as established by the Superintendent of Public Instruction.

Reimbursement for state preschool programs shall be on a per capita basis as determined by the Superintendent of Public Instruction.

SEC. 13. Article 8 (commencing with Section 8240) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 8. General Child Care and Development Programs

8240. The Superintendent of Public Instruction, with funds appropriated for this purpose, shall administer general child care and development programs.

General child care and development programs shall include:

(a) Age and developmentally appropriate activities for children.

(b) Supervision.

(c) Parenting education and parent involvement.

(d) Social services that include, but are not limited to, identification of child and family needs and referral to appropriate agencies.

(e) Health services.

(f) Nutrition.

(g) Training and career ladder opportunities, documentation of which shall be provided to the Department of Education.

8241. Programs operated pursuant to this chapter may be designed to meet child-related needs identified by parents or guardians which may include, but are not limited to, the following:

(a) Care for school-age children during non-school hours.

(b) Weekend care.

(c) Night shift care.

(d) Worksite care.

(e) Temporary emergency child care.

(f) Child care for ill children.

8242. To promote greater program flexibility for center-based programs previously funded under the Alternative Child Care Act pursuant to former Chapter 2.5 (commencing with Section 8400) and for new programs funded pursuant to this chapter, such programs shall operate pursuant to the regulations for child day care facilities under Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

Notwithstanding the provisions of Section 8360, these programs are not subject to regulations under Title 5 of the California Administrative Code and the laws upon which those regulations are promulgated if subsidized children comprise less than a majority of

their enrollment at any given center.

If there are no facilities in the area able to meet the special needs of particular children, then the department may, upon request, waive its regulations for staffing and group size ratios under Title 5 of the California Administrative Code and the laws upon which those regulations are promulgated for programs in which subsidized children comprise a majority of the enrollment.

SEC. 14. Article 9 (commencing with Section 8250) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 9. Child Care and Development Services for Children with Special Needs

8250. (a) To the greatest extent possible, the Superintendent of Public Instruction shall ensure that children with special needs who can be appropriately served in child care and development programs for nonhandicapped children shall have equal access to such programs. Available federal and state funds for children with special needs above the standard reimbursement amount shall be used to assist agencies in developing and supporting appropriate programs for such children.

(b) Whenever children cannot be served in regular child care and development programs because of severe disabling conditions, the Superintendent of Public Instruction shall establish alternate appropriate placements, such as self-contained programs. These programs shall be started as expansion funds become available, and shall be expanded throughout the implementation of the plan.

(c) Any handicapped child served in child care and development programs shall be afforded all rights and protections guaranteed in state and federal laws and regulations for individuals with exceptional needs.

(d) The Superintendent of Public Instruction shall include child care and development providers in all statewide planning for personnel development for persons providing services for children with special needs.

8251. All child care and development programs shall include plans or programs, or both, for the care of the children when they are sick. These plans shall be age appropriate and parents shall be included in the planning and evaluation. The Superintendent of Public Instruction shall disseminate information regarding effective sick child care models to all child care and development programs.

Nothing in this chapter shall be construed to allow the practice of medicine without a license.

8252. (a) The Department of Education and the local county welfare department shall enter into contracts which establish the procedures for serving and referring a child in need of care as part of the provision of protective services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code. The Department of Education, in

consultation with the State Department of Social Services, may contract with another appropriate community agency which provides services or referrals, or both, for the prevention or intervention of child abuse or neglect if no such contract for child care services exists between the Department of Education and the county welfare department.

(b) The contracts shall specify the resource and referral program or operating agency or agencies providing child care and development pursuant to this chapter in the county that the local contracting agency shall contract to secure care for a child needing protective services. If an operating agency is unable to enroll the child, the local contracting agency described in subdivision (a) with the assistance of the providers of local resources and referral services shall locate services for the family. Payments for such located services in the absence of other funds shall be made by the local contracting agency.

The need for child care funded pursuant to this section shall be reviewed by the local contracting agency no less than every three months.

SEC. 15. Article 10 (commencing with Section 8260) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 10. Administration

8260. The Department of Education shall develop and coordinate resources, provide technical assistance, monitor program implementation, generate maximum federal reimbursement wherever possible for the federally eligible children, and facilitate alternative funding for those children for whom federal funds are not available.

8261. The Superintendent of Public Instruction shall adopt rules and regulations pursuant to this chapter.

The superintendent shall consult with the State Department of Social Services with respect to rules and regulations adopted relative to the disbursal of federal funds under Title XX of the Social Security Act.

8262. The Superintendent of Public Instruction shall enter into local contractual agreements for the delivery of child care and development services. The Superintendent of Public Instruction may also enter into agreements with any public or private entity or agency for the furnishing of property, facilities, personnel, supplies, equipment, and administrative services.

The Superintendent of Public Instruction, by authority of an interagency agreement with the state licensing agency for community care facilities, shall license and monitor all facilities in which child care is being provided by an agency under contract with the Department of Education, unless such facilities have been licensed by the state licensing agency or are exempted from licensing.

8263. (a) The Superintendent of Public Instruction shall adopt such rules and regulations on eligibility, enrollment, and priority of services as needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family shall be (A) a current aid recipient, (B) income eligible, or (C) a recipient of protective services for children; and

(2) A family shall need the child care service because the child is in need of protective services, or parents are (A) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (B) employed or seeking employment, or (C) incapacitated.

(b) Priority for state and federally subsidized child development services shall be as follows:

(1) First priority shall be given to recipients of child protective services for children who are neglected or abused, or at risk of being neglected or abused, upon written referral from a legal, medical, social service, or public agency Within this priority, families with the lowest gross monthly income shall be admitted first. When an agency is unable to enroll a child in need of protective services, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are recipients of aid to families with dependent children, Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, state supplementary program for aged, blind and disabled, Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, work incentive programs under Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code and Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code, or comprehensive employment and training programs, Chapter 17 (commencing with Section 801) of Title 29 of the United States Code Annotated, and who are income eligible. Within this priority, families with the lowest gross monthly income shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(c) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that such medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed such letter. However, whenever there is good

cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.

(d) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or disabled children.

(e) The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter. No recipient of public assistance shall pay a fee. Insofar as federal funds are utilized, this fee schedule shall conform to that allowed by the federal social service regulations as designated in the California State Plan for Social Services.

(f) The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(g) No public funds shall be paid directly or indirectly to any agency which does not pay at least the minimum wage to each of its employees.

8264. By July 1, 1981, and annually thereafter, the State Department of Health Services shall provide a mechanism for the delivery of health screening and followup services for children enrolled in child care and development programs for whom there are no appropriate health services accessible by referral.

SEC. 16. Article 11 (commencing with Section 8265) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 11. Reimbursement Rates

8265. (a) The Superintendent of Public Instruction shall implement a plan which establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

Actual reimbursement shall not, in any case, exceed actual program costs, and parent fees shall be deducted from the assigned reimbursement rate or actual costs, whichever is less.

When establishing such standards and assigned reimbursement rates, the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

The Superintendent of Public Instruction may establish such

regulations as he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) The standard reimbursement rate shall be three thousand five hundred twenty-three dollars ($3,523) per unit of average daily enrollment adjusted for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.

(c) The plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

(d) The plan shall provide for adjusting reimbursement on a case-by-case basis for agencies currently reimbursed at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

(1) Loss of program resources from other sources.

(2) Need of an agency to pay the same child care rates as those prevailing in the local community.

(3) Threat of closure because of fiscal insolvency.

(4) Increased costs directly attributable to new or different regulations.

Child care agencies funded at the lowest rates shall be given first priority for increases.

(e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.

(f) The Superintendent of Public Instruction may reduce the percentage of reduction for any public agency:

(1) Which is currently serving more than 400 children; or

(2) Which has in effect a collective bargaining agreement; or

(3) For which other extenuating circumstances apply as determined by the Superintendent of Public Instruction.

8265.5. Claims for reimbursement above the assigned reimbursement rate, but within the provider agency's total annual allocation, shall be payable for services to children with special needs.

Reimbursement-plus rates for infants age 0 to 2 years shall be the lesser of the assigned reimbursement rate or the standard reimbursement rate multiplied by 1.3.

The following reimbursement rate shall apply only to those programs whose assigned reimbursement rates are at or below the standard reimbursement rate:

(a) For handicapped of any age, the assigned reimbursement rate multiplied by 1.1.

(b) For severely handicapped of any age, the assigned reimbursement rate multiplied by 1.3.

(c) For a child at risk of neglect, abuse, or exploitation of any age, the assigned reimbursement rate multiplied by 1.1.

(d) For limited-English-speaking and non-English-speaking age 2 through kindergarten, the assigned reimbursement rate multiplied by 1.1.

Reimbursement for services provided to a child having more than one special need shall not be made at reimbursement-plus rates under more than one of the above catagories, including the infant category. Such reimbursement shall be used for special and appropriate services for such child.

8266. Notwithstanding the provisions of Section 8265, the fees paid to a center-based child day care agency (a) contracting with the Department of Education, (b) operating under licensing standards for child care and development facilities specified by Section 1500 et seq. of the Health and Safety Code and by Title 22 of the California Administrative Code, and (c) with less than a majority of subsidized children enrolled in the facility, shall be the same as the fee paid for the same service by families of nonsubsidized children.

It is not the intent of the Legislature to preclude an agency with a contract with the department from adjusting the fees charged to nonsubsidized children during the contract year. In no event shall the fees paid for subsidized children exceed the standard reimbursement rate established pursuant to Section 8265.

These agencies shall provide documentation to the department that subsidized children, as necessary and appropriate, shall receive supportive services through county welfare departments, resource and referral programs, or other existing community resources, or all of them.

8266.5. Notwithstanding the provisions of Section 8265, the payment made to a child care facility (a) with authorization for payments from an alternative payment program or a county welfare department, (b) operating under licensing standards for child day care facilities specified by Sections 1500 et seq. of the Health and Safety Code and by Title 22 of the California Administrative Code, and (c) with less than a majority of subsidized children enrolled in the facility, shall be the same as the fee paid for the same service by families of nonsubsidized children.

These facilities shall provide documentation to the relevant alternative payment system or county welfare department that subsidized children, as necessary and appropriate, shall receive supportive services through county welfare departments, resource and referral programs, other existing community resources, or all of them.

8267. The audits for those agencies licensed under the provisions of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall include a sampling of the evidence of fees paid by families of nonsubsidized children, the average daily enrollment of subsidized and nonsubsidized children, the average number of days of service provided to subsidized children, and the services provided to subsidized children pursuant to the terms of the

contract.

8268. The Superintendent of Public Instruction and the State Controller shall establish the necessary plans to advance child care funds to contracting agencies.

8269. The Superintendent of Public Instruction shall adopt rules, regulations, and guidelines to facilitate the funding and reimbursement procedures required by this chapter.

8270. The Superintendent of Public Instruction shall support the coordination of resources available to state and local agencies serving children, youth, and their families.

8271. In the event that operating agencies are unable to operate due to incomplete renovations authorized by administrating state agencies, or due to circumstances beyond the control of the operating agency, including earthquakes, floods, or fire, such programs shall not be penalized for incurred program expenses nor in subsequent annual budget allocations.

8272. The Legislature recognizes that school districts which utilized the child development permissive override tax and complied with the more stringent federal regulations have developed programs with higher costs than agencies which did not supplement their programs with the tax.

In order to reduce the disparity in program reimbursements, the Superintendent of Public Instruction shall implement a cost control plan commencing on October 1, 1980, after submission of the plan to the Joint Legislative Budget Committee. Agencies subject to the plan are those whose assigned reimbursement rates in the 1979–80 fiscal year exceeded the standard reimbursement rate. The plan shall be as follows:

(a) By October 1, 1980, the Superintendent of Public Instruction shall implement the staffing ratios specified by Section 8288 for programs subject to federal regulations and the staffing ratios pursuant to Title 5 of the California Administrative Code for programs subject to state regulations. Pursuant to Section 8287, the Superintendent of Public Instruction may allocate reimbursement to programs from the funding source whose associated staffing ratios and group size standards allow the maximum number of children to receive services at the minimum cost per average daily enrollment for each agency.

Each agency shall report to the Superintendent of Public Instruction by October 1, 1980, the extent to which the average daily enrollment can be increased in accordance with implementation of the staffing ratios and within the constraint of facility size with no resultant increase in the agency's annual contract reimbursement amount. First priority shall be to achieve an increase in the average daily enrollment in each facility with no additional state cost.

Agencies which are unable to increase their average daily enrollment to the level specified by the staffing ratios due to facility size constraints shall also report the reduction of staffing and program costs resulting from implementation of the ratios. The

Superintendent of Public Instruction shall ensure that the agency's revised fiscal year 1980–81 Budget which accompanies the report reflects the cost reductions resulting from implementation of the new staffing ratios.

Upon implementation of the ratios, the Superintendent of Public Instruction shall recalculate the level of reimbursement per average daily enrollment based on any increase in average daily enrollment or decrease in the agency's cost as verified by the superintendent, or both. The superintendent shall submit to the Joint Legislative Budget Committee previous and recalculated reimbursement and average daily enrollment levels for each agency. The 1981–82 contract for reimbursement of child care services shall reflect changes resulting from implementation of the staffing ratios.

Programs with collective bargaining agreements in existence on June 30, 1980, which specify staffing ratios and prevent the implementation of ratios consistent with this section may delay, if necessary, implementation of the ratios until the expiration of such agreement or June 30, 1981, whichever is earlier.

Agencies which are unable to expand their average daily enrollment to the maximum allowable under implementation of the staffing ratios shall reduce their staffing to a level consistent with the ratios through staff attrition, including transfer to district programs other than the child development program. Agencies whose facility size limits them solely to reduction in staffing levels to achieve implementation of the staffing ratios may be granted a waiver by the Superintendent of Public Instruction to extend the time for implementation of this section. However, no extension shall be granted beyond July 1, 1982.

Any savings which result to the state from implementation of this section shall be utilized for expansion of child care services at or below the standard reimbursement rate. Savings may also be utilized to increase the assigned reimbursement rates of those agencies below the standard reimbursement rate which the Superintendent of Public Instruction determines, on a case-by-case basis, to be necessary and fiscally appropriate, and which would otherwise result in the agency's termination of its child development program, or a substantial reduction in the quality of the program.

(b) Agencies subject to this cost control plan that have initiated administrative policies implementing compliance or that have complied with the provisions of subdivision (a) shall be eligible for allocation of the cost of living funding provided by the Budget Act as specified in Section 23.5 of the chapter of the Statutes of 1980 by which this section was enacted.

(c) During the 1980–81 fiscal year, the Department of Education, after submission of a plan to the Joint Legislative Budget Committee, shall study the type, scope, and level of the elements of cost of all the programs subject to this cost control plan and of a sample of other state-subsidized child care and development services programs. This study shall establish standardized definitions of the elements of costs,

particularly direct service costs, administrative costs, indirect costs, clearly specified labor costs, the cost of providing services to children with special needs, and supplemental service costs. Based upon this study, the department shall adopt accounting procedures to secure reliable reports of the cost of such elements, and report recommendations to the Legislature pursuant to subdivision (f).

(d) The Department of Education shall review its regulations, guidelines, and monitoring procedures of all child care and development programs to assure that programs are provided maximum flexibility to reduce program costs so long as children receive quality care and services. Flexibility may be provided in areas such as, but not limited to, scheduling of staff, encouraging referrals for services, and waiving some program elements so that different services are provided to children receiving after-school care compared to those services required for infants and preschool age children.

(e) The Department of Education, after submitting its plan to the Joint Legislative Budget Committee, and subject to the provisions of Section 8287, may utilize federal funds for certain program types in order to maximize provision of the child care and developmental services.

(f) The Legislative Analyst shall develop and report to the Legislature by March 1, 1981, findings and recommendations on the need to provide reimbursement to agencies above the standard reimbursement rate to reflect the impact of collective bargaining, wage rates necessary to provide adequate income for all caregivers, and differences in regional costs.

For the 1981–82 fiscal year and subsequent fiscal years, the Department of Education shall recommend to the budget committees of the Legislature: (1) limitations on, or expansion of, the type and level of reimbursement (in terms of cost per average daily enrollment or percentage of total agency budget) of various cost elements identified in the study in subdivision (c), (2) continuation of the provision of cost of living as specified by subdivision (b), and (3) recommendations for reimbursement above the standard reimbursement rate as specified in subdivision (f).

8273. Agencies which are not subject to the cost control plan shall submit to the Superintendent of Public Instruction a plan for implementation of the staffing ratios specified in Section 8288 unless they are operating under Title 22 of the California Administrative Code as permitted in Section 8242, 8266, or 8266.5. The plan shall identify the increase in average daily enrollment or the decrease in cost resulting from the implementation of the staffing ratios. Highest priority shall be given to expansion of the program's average daily enrollment if the program has adequate space. If a program is unable to provide more care, it shall specify when the new ratios will be implemented and the resultant decrease in the program's reimbursement, unless on a case-by-case basis the program is able to

demonstrate to the Superintendent of Public Instruction that maintenance of the reimbursement per average daily enrollment is fiscally appropriate and necessary, or would otherwise result in the agency's termination of its child development program or a substantial reduction in the quality of the program. Any savings from the implementation of this section shall be used for expansion of child care and development services to agencies which can provide care within the standard reimbursement rate.

SEC. 17. Article 12 (commencing with Section 8275) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 12. Allocations and Expenditures

8275. (a) The Superintendent of Public Instruction may reimburse approvable start-up costs of child development agencies or facilities in an amount not to exceed 15 percent of the expansion or increase of each such agency's total contract amount. Under no circumstances shall reimbursement for start-up costs result in an increase in the agency's total contract amount. Such funds shall be available for all of the following:

(1) The employment and orientation of necessary staff.

(2) The setting up of the program and facility.

(3) The finalization of rental agreements and the making of necessary deposits.

(4) The purchase of a reasonable inventory of materials and supplies.

(5) The purchase of an initial premium for insurance.

(b) Agencies shall submit claims for start-up costs with their first quarterly reports.

8276. The Superintendent of Public Instruction shall develop a plan and procedures for the allocation of expansion funding balances resulting from the prorata allocation of expansion for the partial year operations of new agencies.

Such a plan shall provide for the distribution of such funds among provider agencies whose enrollments include children with special needs and shall limit provider agencies' use of these funds to the purchase of Department of Education approved equipment or materials or one-time-only services, or any of them, that will directly benefit the children with special needs.

8276.5. The Legislature recognizes the shortage of child care and development facilities which meet state and local health and safety standards, and the lack of other sources of funding for renovations and repairs necessary to upgrade facilities for licensing in order to accommodate major child care expansion. It is, therefore, the intent of the Legislature that funds be appropriated for the purpose of providing small grants, as provided in Section 8277.1, to family day care homes, and revolving loans with no interest, as provided in Section 8277.2, to all other types of child care and development facilities, in order to provide sufficient child care and development

facilities meeting licensing standards to accommodate the level of child care expansion provided in this chapter.

It is further the intent of the Legislature that funds be appropriated for the state purchase of relocatable child care and development facilities as provided in Section 8277.7, for lease to qualifying contracting agencies in geographic areas with no available child care and development facilities.

8277. The Superintendent of Public Instruction shall establish regulations for the allocation of capital outlay funds provided pursuant to Section 8277.1 to Section 8277.4, inclusive, to benefit children most needing child care and development programs. The first priority for all capital outlay shall be given to facilities located in geographic areas with no other available enrollment slots in existing subsidized and nonsubsidized child care and development facilities. All such capital outlay funding shall be used solely for purposes of renovation and repair of existing buildings.

The Superintendent of Public Instruction shall establish qualifications for determining the eligibility of contracting agencies and day care homes to apply for capital outlay funds.

8277.1. The Superintendent of Public Instruction may allocate to family day care homes based on need, an amount from the appropriation in Section 23 of the chapter of the Statutes of 1980 by which this section was enacted, not to exceed one thousand dollars ($1,000) per home, for minor capital outlay purchases for the repair and renovation of homes for the purpose of insuring compliance with state and local health and safety standards.

It is the intent of the Legislature that capital outlay moneys be accessible to family day care homes through the auspices of the contract agency or a family day care association, which may include resource and referral agencies.

8277.2. The Superintendent of Public Instruction shall establish a revolving loan fund to provide loans to child care and development contracting agencies for capital outlay not to exceed 2 percent of the agency's contract amount. These loans shall be available with no interest and shall be used to renovate and repair child care facilities to meet state and local health and safety standards.

8277.3. Repayments on loans made pursuant to Section 8277.2 shall commence within one year after allocation of the loan to the contracting agency. In lieu of payments by the contracting agency, the Superintendent of Public Instruction shall annually reduce the agency's contract amount for child care services by at least the level of normal depreciation allowance on the renovation or repair, calculated by the straight line method of depreciation.

The entire balance of a loan made pursuant to this section shall be payable to the Superintendent of Public Instruction immediately if the contracting agency ceases operation of services to children subsidized pursuant to this chapter, or if the Superintendent of Public Instruction fails to renew the agency's contract, or if 10 years have elapsed from the date of the allocation.

The Superintendent of Public Instruction shall deposit all revenue derived from loan payments made by contracting agencies, or reductions made by the Superintendent of Public Instruction in agencies' contracts in lieu of payments, into the revolving loan fund for allocation to other contracting agencies for capital outlay projects pursuant to this section.

8277.4. The state shall hold a security interest in all renovations and repairs funded pursuant to Section 8277.2.

8277.7. (a) As used in this section:

(1) "Board" means the State Allocation Board.

(2) "Lessee" means a child care and development contracting agency to whom the board has leased a relocatable facility pursuant to this section.

(b) The board, with the advice of the Superintendent of Public Instruction, may do all of the following:

(1) Establish such qualifications as it deems will best serve the purposes of this section for determining the eligibility of child care and development contracting agencies to lease relocatable facilities under this section.

(2) Establish such procedures and policies in connection with the administration of this section as it deems necessary.

(3) Adopt such rules and regulations for the administration of this section requiring such procedure, forms, and information, as it may deem necessary.

(4) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place relocatable child care and development facilities where needed.

(5) Own, have maintained, and lease relocatable classrooms to qualifying child care and development contracting agencies.

(c) The board shall lease relocatable facilities to qualifying child care and development contracting agencies for a rate equal to the prevailing rental rate for each facility, and shall require lessees to undertake all necessary maintenance, repairs, renewal, and replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

(d) The board shall require lessees to insure at their own expense for the benefit of the state, any leased relocatable facility which is the property of the state, against such risks, including liability from the use thereof, in such amounts as the board may deem necessary to protect the interest of the state.

(e) The board shall have authority to adopt rules establishing priorities for the acquisition and leasing of facilities to contracting agencies which will most benefit children needing child care and development programs. The board shall require each lessee to demonstrate that relocatable facilities are utilized solely for operation of child care and development programs.

(f) No relocatable facilities shall be made available to a contracting agency unless such agency furnishes evidence,

satisfactory to the board, that the contracting agency has no other facility available for rental, lease, or purchase in the geographic service area.

(g) The board shall have prepared for its use, performance specifications for relocatable facilities which are capable of being economically moved, and bids for the construction of which can be solicited from more than one responsible bidder. The board shall from time to time solicit bids from, and award to, the lowest responsible competitive bidder, contracts for the construction or purchase of only such numbers of relocatable facilities as have been approved for lease to eligible child care and development contracting agencies.

(h) If at any time the board determines that a lessee's need for particular relocatable facilities which were made available to the lessee pursuant to this chapter has ceased, the board may take possession of such relocatable facilities and may lease them to other eligible contracting agencies or, if there is no longer a need for such relocatable facilities, the board may dispose of them to public or private parties in such manner as it deems to be in the best interests of the state.

Any revenue which is derived from a lease or other disposition of such relocatable facilities pursuant to this section is continuously appropriated to the board for the purposes of this section to fund the purchase of other relocatable facilities for child care and development programs.

8277.8. In the event that a school district elects to discontinue its contract for child development services, the facilities owned by the school district and constructed through the provisions of the local tax override for child development purposes shall be made available to the local contractor whose bid is accepted for continuation of the services.

The rent for such facilities shall not exceed the prevailing rental rate for such facilities.

8278. (a) Any child development funds allocated to provider agencies, but unspent by such agencies at the close of a fiscal year, shall be carried over by the Department of Education into the next fiscal year.

(b) The Superintendent of Public Instruction shall redistribute carried-over funds among ongoing provider agencies, for the purchase of Department of Education approved materials or one-time only services, or both, that will directly benefit the children enrolled in the programs during the new fiscal year.

8279. Each county shall, as a minimum, maintain the level of expenditure for child care services provided by the county during the 1970–71 fiscal year. Funds provided pursuant to this chapter are to be utilized to expand child development services to children by supplementing, and not supplanting, the county share of expenditures for child care services provided by county funds during the 1970–71 fiscal year.

SEC. 18. Article 13 (commencing with Section 8280) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 13. Legislative Report

8280. (a) On December 15, 1980, and every third year thereafter, the Superintendent of Public Instruction shall submit to the Joint Legislative Budget Committee a report documenting the performance of child care and development programs operating pursuant to this chapter during the preceding fiscal year. The Superintendent of Public Instruction shall follow already established rules regarding confidentiality. Each such report shall include, but not be limited to, the following information, derived through appropriate sampling methods:

(1) Statistical data enumerating and describing children and families served by the programs, including distributions of families and children by income levels, by ethnic groupings, by children's ages, by number of parents in household, by reasons for receiving child care service (that is, employment, training, education, and protection), by public assistance status, and by family size.

(2) Statistical data enumerating and describing the characteristics of programs, including the types of programs in terms of size and facilities utilized, types of agencies operating programs as defined by subdivision (k) of Section 8208, and the staff-child ratios and the staff composition for each type of program and for each type of operating agency.

(3) Cost data describing the total costs and the average cost of services for child development programs, including costs related to other income and services used for child development services.

(4) Data describing the quality of child care and development services in accordance with measurement criteria pursuant to Section 8203.

(b) Each resource and referral program report shall include, but not be limited to, the following information derived through appropriate sampling methods:

(1) Statistical data enumerating and describing children and families requesting referral services, including distributions of families and children by children's ages, by time categories needed, and by reasons for seeking child care service (that is, employment, training, education, and protection).

(2) Statistical data enumerating and describing the characteristics of the resource and referral services provided, including the types of services provided in terms of delivery, system procedures, and volume of use; types of agencies operating programs; and the staff composition of each type of operating agency.

(3) Data describing the quality of resource and referral services in accordance with measurement criteria as described pursuant to Section 8203.

SEC. 19. Article 14 (commencing with Section 8285) is added to

Chapter 2 of Part 6 of the Education Code, to read:

Article 14. Plan for Expansion of Child Care and Development Services

8285. Within the limits of available funding, the Superintendent of Public Instruction shall implement the plan developed by the Commission on Child Care and Development Services.

The Superintendent of Public Instruction shall set priorities for expansion as funding is made available to ensure that all child care and development programs are adequately expanded according to the priorities set forth in the Child Care Commmission Report (1978).

(a) Equal priority for the first year's expansion of services shall be given to:

(1) Infants and toddlers, including those of migrant workers and school-age parents.

(2) School-age children during nonschool hours.

(3) Children in rural areas.

(4) Coordination of services to children with special needs.

(5) The expansion of resource and referral programs for child care and development services in order to maximize coordination of services and community resources.

(6) Children in low-income, urban areas with high need for child care.

(b) One factor in approving expansion of programs that meet the priorities in this section shall be the cost-effectiveness of the proposed program.

8286. The Governor shall appoint an advisory committee composed of one representative from the State Board of Education, one representative from the State Social Services Advisory Board, one representative of private education, one representative of child welfare, one representative of private health care, two representatives of proprietary child care agencies, one representative of a community action agency qualified under Title II of the Economic Opportunity Act of 1969, two representatives of family day care homes, five parents of children participating in child care programs of whom at least three shall be parents of children participating in publicly subsidized child development programs, appointed from names selected by a democratic process to assure representation of the parents of children being served, four persons representing professional or civic groups or public or nonprofit private agencies, organizations or groups concerned with child development, and one teacher currently serving in a public school children's center.

The advisory committee shall also include one representative from the Department of Education appointed by the Superintendent of Public Instruction, and one representative each from the Employment Development Department, the State Department of

Social Services, the State Department of Health Services, and the State Department of Developmental Services, appointed by the respective director of each department.

The advisory committee shall assist the Department of Education in developing a state plan for child development programs pursuant to this chapter.

The advisory committee shall continually evaluate the effectiveness of such programs and shall report thereon at each regular session of the Legislature.

The advisory committee is continued in existence with the same members and functions under this chapter as it had immediately prior to the effective date of this section.

8287. The Superintendent of Public Instruction shall establish rules and regulations for the staffing of all center-based child care and development programs under contract with the Department of Education.

Priority shall be given by the Department of Education to the employment of persons in child development programs with ethnic backgrounds which are similar to those of the child for whom child development services are provided.

For purposes of staffing child care and development programs, the role of a teacher in child supervision means direct supervision of the children as well as supervision of aides and groups of children.

Family child care homes shall operate pursuant to adult/child ratios prescribed in Chapter 7 (commencing with Section 86001) of Division 6 of Title 22 of the California Administrative Code.

Approval by the Superintendent of Public Instruction of any ongoing or new programs seeking to operate under the ratios and standards established by the Superintendent of Public Instruction under this chapter shall be based upon the following considerations:

(a) The type of facility in which care is being or is to be provided.

(b) The ability of the Superintendent of Public Instruction to implement a funding source change.

(c) The proportion of nonsubsidized children enrolled or to be enrolled by the agency.

(d) The most cost-effective ratios possible for the type of services provided or to be provided by the agency.

The Superintendent of Public Instruction shall apply for such waivers of federal requirements as are necessary to carry out this section.

8288. The Superintendent of Public Instruction shall promulgate regulations for center-based programs that provide for the following staffing ratios and group size standards:

(a) Infants, 0 to 2 years old—1:3 adult-child ratio, 1:18 teacher-child ratio, with a maximum group size of 6.

(b) Infants and toddlers, 0 through 2 years old—1:4 adult-child ratio, 1:16 teacher-child ratio, with a maximum group size of 12.

(c) Three to six years old—1:8 adult-child ratio, 1:24 teacher-child ratio, with a maximum group size of 16.

(d) Six to ten years old—1:14 adult-child ratio, 1:28 teacher-child ratio, with a maximum group size of 14.

(e) Ten to fourteen years old—1:18 adult-child ratio, 1:36 teacher-child ratio, with a maximum group size of 18.

The Superintendent of Public Instruction may authorize variances in the maximum group size when variances will result in greater utilization of available space without having an adverse effect on the group.

The Superintendent of Public Instruction shall apply for such waivers of federal requirements as are necessary to carry out this section.

The effective date of the requirements under this section shall be October 1, 1980.

This section shall remain in effect only until July 1, 1981, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date.

8289. The Department of Education shall disburse augmentations to the base allocation for the expansion of child care and development services to promote equal access to child development services across the state.

(a) To develop a formula to promote this equal access, the Department of Education shall use indirect indicators of need for child care. These data shall be combined on a county by county basis. However, counties larger than 1,000,000 persons shall be divided into smaller units for which the data will be combined.

More specific indicators of subsidized day care need shall be substituted for or included in the formula as they become available.

These indicators of need for child care shall be combined to determine each county and subcounty unit's relative need for child care services.

(b) The Department of Education shall determine the total for each county or subcounty unit dollar amount for publicly subsidized child care services.

(c) The comparison of combined need with available public resources as provided for in this section shall guide the Department of Education in determining the portion of new funds which will be available to applicant agencies from each county or subcounty unit.

The size of those portions for expansion of child development services shall promote equal access to child development services for eligible families across the state by bringing the relative dollar amounts in each county or subcounty unit into closer congruence with the relative need for child care services in each county or subcounty unit.

SEC. 19.5. Section 8328 of the Education Code is amended to read:

8328. The governing board of any school district or community college district or the county superintendent of schools shall establish in the county treasury a fund to be known as the "child development fund" into which shall be paid all funds received by the district or

the county for, or from the operation of, child development services under this chapter. The costs incurred in the maintenance and operation of child development services shall be paid from the fund, with accounting to reflect specific funding sources.

Funds of a district derived from the receipt of district taxes or derived from moneys apportioned to the district for the support of schools thereof, in addition to state moneys appropriated for the support of child development services, fees, and federal funds, may be expended for, or in connection with child development services.

SEC. 20. Section 8360 of the Education Code is amended to read:

8360. Except as waived under Section 8242 the governing board of a public or private agency as defined within Section 8208 shall employ in a child care and development program only such persons who hold regular child care and development permits issued by the Commission for Teacher Preparation and Licensing. Any person holding a credential authorizing teaching service in elementary schools issued by the State Board of Education or commission with either 12 units of training or at least two years' experience in early childhood education or a child care and development program, or holding a single subject credential in home economics with either 12 units of training or at least two years' experience in early childhood education or a child care and development program is deemed to hold a regular child care and development permit that will authorize supervision and instruction of children or supervision of a child development program. The filing with the county superintendent of schools of a regulation of a governing board or a public health agency requiring a physical examination of persons employed in programs shall be deemed to be the issuance of a valid permit except for persons employed in positions pertaining to the supervision and instruction of children or supervision of a program. Each person employed by the governing board of a public or private agency as defined within Section 8208 for a position requiring a permit shall, not later than 95 days after the date fixed by the governing board of the agency for the commencement of his or her service, file with the county superintendent of schools a valid permit issued on or before such date, authorizing him or her to serve in a position for which he or she was employed, and shall, not later than 95 days after the renewal thereof, file the renewed permit in the same manner.

SEC. 21. Chapter 2.5 (commencing with Section 8400) of Part 6 of the Education Code is repealed.

SEC. 22. Section 33420 of the Education Code is amended to read:

33420. (a) The Superintendent of Public Instruction, in cooperation with the Department of Finance and the Auditor General, shall, on or before July 1, 1980, provide for a plan for independent audits of state and federal funds allocated to private agencies which are under contract with the Department of Education for the provision of educational services.

For the purpose of this article, "educational services" includes, but is not limited to, child nutrition and child development services.

To the maximum extent possible, the plan shall conform to audit procedures pursuant to Section 41020.5.

(b) Effective July 1, 1980, the Department of Education, as a condition to any contract with a private agency for the provision of educational services, shall require a periodic audit of state and federal funds to be conducted by departmental staff auditors or a certified public accountant or public accountant who is licensed by the California State Board of Accountancy. The audit shall be limited to those state and federal funds accruing to the private agency as a result of its contract with the Department of Education.

(c) If in the course of such audits of a private agency, an audit exception is reported by the certified public accounting firm in excess of a material amount as determined by the Superintendent of Public Instruction, the Superintendent of Public Instruction shall, upon final determination by the superintendent of the amount of the audit exception, collect such audit exception and redistribute the amount collected to the same class of program, or withhold the amount of the audit exception from the next payment to the agency in which the audit exception was discovered.

(d) The Department of Education shall establish a schedule for audits which meets federal regulations and which covers all contract periods from the last previous audit.

(e) The Department of Education may exempt from the provisions of this section those agencies for which, in the department's estimation, the cost of an audit would be inordinate in relation to the level of funding received by the private agency for the educational services provided.

SEC. 23. There is hereby appropriated from the General Fund to the Department of Education nine million dollars ($9,000,000) for the 1980–81 fiscal year, in addition to, and in augmentation of, any other appropriations for such purposes, for expenditure for the purposes of Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code, as follows:

(a) For the last nine months of the 1980–81 fiscal year, the sum of nine million dollars ($9,000,000) in augmentation to the base allocation for child care and development services to implement the expansion plan for child care and development services through public or private agencies; provided that funds allocated for child care expansion to individual programs shall be limited to a pro rata share of full-year funding plus startup costs pursuant to Section 8275 of the Education Code, depending upon when a program becomes operational. Any part of the nine million dollars ($9,000,000) unused during the last nine months shall be available for expenditure for such purposes during the 1981–82 fiscal year. No agency shall receive expansion funds in excess of the standard reimbursement rate.

(b) For subsequent fiscal years, further augmentation to the base allocation for the expansion of such services may be sought by the Department of Education through the normal budgetary process.

(c) A portion of the allocation under subdivision (a) may be

expended without regard to fiscal year for payments for services located by an agency unable to enroll a child in need of protective services.

(d) Not less than 25 percent of funds allocated under subdivision (a) shall be allocated to local community-based and local governmental organizations without present child care and development contracts. Such allocations may include alternative payment programs.

(e) To ensure the ability of the Department of Education to promote new ways of delivering child development services, which may emerge from changing local conditions, innovative programs may be considered for funding within the 25 percent of subdivision (d). "Innovative programs" are those which fall outside the provisions of subdivisions (b) and (k) of Section 8208 of the Education Code and for which the Superintendent of Public Instruction may waive provisions in Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code and regulations contained in Title 5 of the California Administrative Code.

(f) Resource and referral agencies shall receive not less than 3 percent of the funds allocated under subdivision (a) until such agencies are present in every area of the state.

The Superintendent of Public Instruction shall report to the Legislature if there is a variance with regard to these provisions.

Not more than 3 percent of the amount appropriated under this section shall be used for administrative costs of the Department of Education. The Department of Finance shall approve the actual amount allocated for administration based upon the administrative expenses anticipated by the Department of Education under this act.

SEC. 23.4. There is hereby appropriated from the Special Account for Capital Outlay created under the provisions of Assembly Bill No. 2973 of the 1980 Regular Session of the Legislature, the sum of four million dollars ($4,000,000) for allocation for the 1980–81 fiscal year to be allocated as follows:

(1) The first five hundred thousand dollars ($500,000) shall be allocated for the purposes of Section 8277.1 of the Education Code.

(2) After allocating funds for the purposes of paragraph (1), one-third of the remaining capital outlay funds shall be allocated for the purposes of Section 8277.2 of the Education Code and two-thirds shall be allocated by the State Allocation Board for the purposes of Section 8277.7 of the Education Code. Any unused funds may be used for any of the purposes specified in this subdivision. Not more than one quarter of the funds allocated for capital outlay shall be expended for facilities for children currently receiving child care and development services. The remaining funds allocated for capital outlay shall be expended for facilities for child care and development services for children not currently receiving such services. Capital outlay funding for support in subsequent fiscal years may be sought by the Department of Education through the normal budgetary process.

Not more than 3 percent of the amount appropriated under this section shall be used for administrative costs of the Department of Education. The Department of Finance shall approve the actual amount allocated for administration based upon the administrative expenses anticipated by the Department of Education under this act.

SEC. 23.5. The Department of Education shall develop and implement a plan so that funds identified in subdivision (i) of Item 340 of the Budget Act of 1980 are used for partial equalization purposes as follows:

(a) Agencies with a 1979–80 assigned reimbursement rate which is at or below the standard reimbursement rate for 1979–80 shall receive the full inflation adjustment. Such agencies may also apply for, and the Superintendent of Public Instruction may grant, on a case-by-case basis, an increase in their assigned reimbursement rates, up to the standard reimbursement rate, from funds representing 25 percent of the amount of moneys allocated under subdivision (i) of Item 340 of the 1980 Budget Act otherwise available to agencies whose assigned reimbursement rates in 1979–80 were greater than 125 percent of the standard reimbursement rate for 1979–80.

(b) Agencies with a 1979–80 assigned reimbursement rate which is above the standard reimbursement rate for 1979–80, but not greater than 125 percent of the standard reimbursement rate, shall receive:

(1) A portion of their budgeted inflation dollars, decreasing as the assigned reimbursement levels approach the 125 percent mark; and

(2) The remainder of the inflation money budgeted, in the form of expansion. This expansion shall be accomplished by increasing the required average daily enrollment level by the number determined by dividing this inflation/expansion dollar amount by the 1979–80 standard reimbursement rate.

(c) For agencies over 125 percent of the standard reimbursement rate, average daily enrollment amounts will be increased by dividing 75 percent of the amount of money available to that agency under subdivision (i) of Item 340 of the Budget Act of 1980, by the standard reimbursement rate.

It is the intent in these three steps to allocate budgeted inflation dollars in such a way that agencies will receive decreasing amounts of inflation money as their assigned reimbursement rates increase between 100 percent and 125 percent of the standard reimbursement rate and that the remainder of the budgeted inflation dollars will go toward expansion at the standard reimbursement rate and adjustment of the rates of agencies below the standard reimbursement rate, as described.

SEC. 24. (a) Pursuant to subdivision (a) of Section 8289 of the Education Code, for the 1980–81 fiscal year, Los Angeles County shall be divided into five subcounty units, and the following four counties shall be divided into two subcounty units each: Alameda, Orange, San Diego, and Santa Clara. The indirect indicators of need for child care shall be combined for each of these subcounty units.

(b) For the 1980–81 fiscal year, the following factors shall be used in the formula described in Section 8289 of the Education Code and shall be weighted as indicated:

(1) Number of women in the labor force, 35 percent.

(2) Number of children ages zero to fourteen years, 20 percent.

(3) Number of families who are income-eligible for day care services, 15 percent.

(4) Number of families with incomes below the poverty level utilizing the criteria of poverty used by the Bureau of Census in compiling the most recent decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index, 15 percent.

(5) Number of children on aid to families with dependent children, Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, 15 percent.

(c) Pursuant to subdivision (b) of Section 8289 of the Education Code, for the 1980–81 fiscal year, the Department of Education shall total the amount of dollars of publicly subsidized child care to the extent it is possible to collect that information. That dollar amount shall include: child care funds administered by the Office of Child Development, except for funds for the state preschool program; child care funds under the work incentive programs, Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code and Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code; child care funds supplied by United Way; Head Start funds which support full-day care; United States Department of Housing and Development, community block grant program and other federal funds used for direct child care services; comprehensive employment and training funds, Chapter 17 (commencing with Section 801) of Title 29 of the United States Code, used to support direct child care services; funds appropriated by city and county governments to provide direct child care services; and the dollar amount spent on child care by working aid to families with dependent children clients which is disregarded through Part A of Title IV of the Social Security Act, income disregard, method of computing grants under the aid to families with dependent children program.

The Employment Development Department shall provide to the Department of Education the data needed to include funds under the work incentive program and the comprehensive employment and training program for direct child care services. The State Department of Social Services shall provide to the Department of Education the data needed to include the amount of money expended on purchasing care through the income disregard method.

Whenever possible, dollar amounts used shall be the amounts appropriated for the 1980–81 fiscal year. Where this data is unavailable, the most recent data available for 12 month's expenditures or appropriations shall be used.

SEC. 25. The Department of Education shall submit a report to the Finance Committee of the Senate and to the Ways and Means Committee of the Assembly by March 1, 1981, on the extent to which enrollments are increasing as a result of the following:

(a) Implementation of the staff ratios contained in this act.

(b) Appropriation for expansion contained in Section 23 of this act.

(c) Use of money specified in subdivision (c) of Section 23.5 of this act.

SEC. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the changes made by this act to provide urgently needed child care and development services are available by the 1980–81 fiscal year, it is necessary that this act take immediate effect.

CHAPTER 799

An act to amend Section 21367.52 of, and add Sections 20750.81 and 21367.53 to, the Government Code, relating to retirement of public employees, and making an appropriation therefor.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 20750.81 is added to the Government Code, to read:

20750.81. The state shall make contributions on account of liability for benefits increased under Section 21367.53 during the 1979-80 Regular Session in addition to those otherwise required by this part in a sum equal to 0.013 percent of the compensation paid state miscellaneous and industrial members by the state, 0.008 percent of the compensation paid state safety members by the state, and 0.010 percent of the compensation paid patrol members by the state.

The contribution of a school employer to the retirement fund with respect to school members and local members employed by a school district or a county superintendent of schools, and the contribution of any employer of a school member, as defined in Section 20019.2, for benefits on account of liability for benefits increased under Section 21367.53 during the 1979–80 Regular Session of the Legislature, in addition to those otherwise required by this part, is increased by a sum equal to 0.018 percent of the compensation paid to such members.

SEC. 2. Section 21367.52 of the Government Code is amended to

read:

21367.52. If the estate or designated beneficiary of a member retired under this system is entitled to receive a comparable lump-sum death benefit from any other retirement system supported, in whole or in part, by public funds in which he was a member in employment subsequent to his last employment in which he was a member of this system, no payment shall be made under Section 21367.51 or 21367.53 providing for payment of a lump-sum death benefit to a member's estate or designated beneficiary.

SEC. 3. Section 21367.53 is added to the Government Code, to read:

21367.53. In lieu of benefits provided by Section 21367.51, upon the death of any person, after retirement and while receiving a retirement allowance from this system, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of six hundred dollars ($600), to be provided from contributions by the state.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

This section shall apply to school members and local members employed by a school district or a county superintendent of schools.

This section shall not apply to any contracting agency, except for those contracting agencies which are school districts or a county superintendent of schools, unless and until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after the effective date of this section, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 4. The sum of one hundred twenty-two thousand five hundred dollars ($122,500) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

SEC. 5. This act shall not become operative if the initiative constitutional amendment which proposes to add Section 26.5 to Article XIII of the Constitution is approved by the voters at the direct primary election to be held on Tuesday, June 3, 1980.

CHAPTER 800

An act to amend Sections 2715, 2728, 2734, 2755, 2756, 2757, 2761, 2770, 2771, 2774, 3800, 3806, and 3820 of, to add Sections 2763, 2774.3, and 2774.5 to, and to add Article 7 (commencing with Section 2795) to Chapter 9 of Division 2 of, the Public Resources Code, relating to mining, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 2715 of the Public Resources Code is amended to read:

2715. No provision of this chapter or any ruling, requirement, or policy of the board is a limitation on any of the following:

(a) On the police power of any city or county or on the power of any city or county to declare, prohibit, and abate nuisances.

(b) On the power of the Attorney General, at the request of the board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.

(c) On the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer.

(d) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.

(e) On the power of any lead agency to adopt policies, standards, or regulations imposing additional requirements on any person if the requirements do not prevent the person from complying with the provisions of this chapter.

(f) On the power of any city or county to regulate the use of buildings, structures, and land as between industry, business, residences, open space (including agriculture, recreation, the enjoyment of scenic beauty, and the use of natural resources), and other purposes.

SEC. 2. Section 2728 of the Public Resources Code is amended to read:

2728. "Lead agency" means the city or county which has the principal responsibility for approving a surface mining operation

pursuant to this chapter or a public agency assigned responsibility for approving a surface mining operation pursuant to Section 2771.

SEC. 2.2. Section 2734 of the Public Resources Code is amended to read:

2734. "State policy" means the regulations adopted by the board pursuant to Section 2755.

SEC. 2.4. Section 2755 of the Public Resources Code is amended to read:

2755. The board shall adopt regulations which establish state policy for the reclamation of mined lands in accordance with the general provisions set forth in Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 2756 of the Public Resources Code is amended to read:

2756. State policy shall apply to the conduct of surface mining operations and shall include, but shall not be limited to, measures to be employed by lead agencies in specifying grading, backfilling, resoiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and watershed control, waste disposal, and flood control.

SEC. 4. Section 2757 of the Public Resources Code is amended to read:

2757. The state policy adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of mined lands, and shall be used as standards by lead agencies in preparing specific and general plans, including the conservation and land use elements of the general plan and zoning ordinances. The state policy shall not include aspects of regulating surface mining operations which are solely of local concern, and not of statewide or regional concern, as determined by the board, such as, but not limited to, hours of operation, noise, dust, fencing, and purely aesthetic considerations.

SEC. 5. Section 2761 of the Public Resources Code is amended to read:

2761. (a) On or before January 1, 1977, and, as a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify portions of the following areas within the state which are urbanized or are subject to urban expansion or other irreversible land uses which would preclude mineral extraction:

(1) Standard metropolitan statistical areas and such other areas for which information is readily available.

(2) Other areas as may be requested by the board.

(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, any area for which classification has been

requested by a petition which has been accepted by the board, or any other areas as may be specified by the board, as one of the following:

(1) Areas containing little or no mineral deposits.

(2) Areas containing significant mineral deposits.

(3) Areas containing mineral deposits, the significance of which requires further evaluation.

(c) As it is completed by county, the State Geologist shall transmit such information to the board for incorporation into the state policy and for transmittal to lead agencies.

SEC. 6. Section 2763 is added to the Public Resources Code, to read:

2763. (a) Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.

(b) Lead agency land use decisions involving areas designated as being of statewide significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of the mineral resources to the state and nation as a whole.

SEC. 7. Section 2770 of the Public Resources Code is amended to read:

2770. Except as specified in Sections 2774.5 and 2776, no person shall conduct surface mining operations unless a permit is obtained from, and a reclamation plan has been submitted to, and approved by, the lead agency for such operation pursuant to this article.

SEC. 8. Section 2771 of the Public Resources Code is amended to read:

2771. Whenever a proposed surface mining operation is within the jurisdiction of two or more public agencies, is a permitted use within the agencies, and is not separated by a natural or manmade barrier coinciding with the boundary of the agencies, the evaluation of the proposed operation shall be made by the lead agency in accordance with the procedures adopted by the lead agency pursuant to Section 2774. In the event that a dispute arises as to which public agency is the lead agency, any public agency which is a party to the dispute may submit the matter to the board; and the board shall designate the public agency which shall serve as the lead agency, giving due consideration to the capability of such agency to fulfill adequately the requirements of this chapter and to an examination of which of the public agencies has principal permit responsibility.

SEC. 9. Section 2774 of the Public Resources Code is amended to read:

2774. (a) Every lead agency shall adopt ordinances in

accordance with state policy which establish procedures for the review and approval of reclamation plans and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. Such reclamation and permit ordinances shall establish procedures requiring at least one public hearing and periodic inspections of surface mining operations, and may include provisions for liens, surety bonds, or other security to guarantee reclamation in accordance with the reclamation plan. Such ordinances shall be periodically reviewed by the lead agency and revised, as necessary, in order to ensure that the ordinances continue to be in accordance with state policy.

(b) Lead agencies shall notify the State Geologist of the filing of an application for a permit to conduct surface mining operations.

(c) On request of a lead agency, the State Geologist shall furnish technical assistance to assist in the review of reclamation plans.

SEC. 10. Section 2774.3 is added to the Public Resources Code, to read:

2774.3. (a) The board shall, in accordance with a time schedule, review lead agency ordinances which establish permit and reclamation procedures to determine whether each such ordinance is in accordance with state policy, and shall certify the ordinance as being in accordance with state policy if it adequately meets, or imposes requirements more stringent than, the California surface mining and reclamation policies and procedures established by the board pursuant to this chapter. The board shall complete on or before January 1, 1982, a review of all such ordinances adopted prior to November 1, 1981.

(b) Lead agencies shall submit ordinances adopted on or after November 1, 1981, which establish permit and reclamation procedures to the board for such determination and certification, and no such ordinance shall take effect until the board has certified that the ordinance is in accordance with state policy. Such review for certification shall be completed by the board within 60 days of the date of submittal to the board.

SEC. 11. Section 2774.5 is added to the Public Resources Code, to read:

2774.5. (a) If, upon review of an ordinance, the board finds that it is not in accordance with state policy, the board shall communicate the ordinance's deficiencies in writing to the lead agency. Upon receipt of such a written communication, the lead agency shall have 90 days to submit a revised ordinance to the board for certification as being in accordance with state policy. The board shall review the lead agency's revised ordinance for certification within 60 days of its receipt. If the lead agency does not submit a revised ordinance within 90 days, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until such time as the lead agency's ordinances are revised in accordance

with state policy.

(b) If, upon review of a lead agency's revised ordinance, the board finds the ordinance is still not in accordance with state policy, the board shall again communicate the ordinance's deficiencies in writing to the lead agency. The lead agency shall have a second 90-day period in which to revise the ordinance and submit it to the board for review. If the board again finds that the revised ordinance is not in accordance with state policy or if no revision is submitted, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until such time as the lead agency's ordinances are revised in accordance with state policy.

(c) On and after November 1, 1981, in any jurisdiction in which the lead agency does not have a certified ordinance, no person shall initiate a surface mining operation unless a reclamation plan has been submitted to, and approved by, the board. Any reclamation plan, approved by a lead agency under the provisions of a lead agency's ordinance which was not in accordance with state policy at the time of approval, shall be subject to amendment by the board or under the provisions of an ordinance certified by the board as being in accordance with state policy.

(d) Reclamation plans approved by the board pursuant to this section shall not be subject to modification by the lead agency at a future date but may be amended by the board. Nothing in this section shall be construed as authorizing the board to issue a permit for the conduct of mining operations.

SEC. 12. Article 7 (commencing with Section 2795) is added to Chapter 9 of Division 2 of the Public Resources Code, to read:

Article 7. Fiscal Provisions

2795. (a) Notwithstanding any other provision of law, the first one million one hundred thousand dollars ($1,100,000) of moneys from mining activities on federal lands disbursed by the United States each fiscal year to this state pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191), shall be deposited in the Surface Mining and Reclamation Account in the General Fund, which account is hereby created, and may be expended, upon appropriation by the Legislature, for the purposes of this chapter.

(b) Proposed expenditures from the account shall be included in a separate item in the Budget Bill for each fiscal year for consideration by the Legislature. Each appropriation from the account shall be subject to all of the limitations contained in the Budget Act and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds. On June 30 of each year any portion of the one million one hundred thousand dollars ($1,100,000) specified in subdivision (a) for that fiscal year which is not appropriated by the Legislature shall be transferred to unappropriated surplus of the General Fund.

SEC. 13. (a) On July 1, 1980, the sum of five hundred seventy thousand dollars ($570,000) appropriated in Item 218 of the Budget Act of 1980 to the Department of Conservation for expenditure for the purposes of the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code) shall revert to the unappropriated surplus of the General Fund. This subdivision shall not become operative unless and until the transfer of moneys provided for by subdivision (b) occurs.

(b) Of the federal funds received by the State Controller on or about May 14, 1980, pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191), and subject to a temporary restraining order and order to show cause issued June 6, 1980, by the Superior Court of the State of California in and for the County of Sacramento in Energy Resources Conservation and Development Commission, et al. v. Kenneth Cory, et al., No. 288967, the sum of one million one hundred thousand dollars ($1,100,000) is hereby transferred, on the effective date of any release of these funds from the court's jurisdiction, to the Surface Mining and Reclamation Account in the General Fund and appropriated, as of July 1, 1980, to the Department of Conservation for expenditure for the purposes of the Surface Mining and Reclamation Act of 1975, in augmentation of Item 218 of the Budget Act of 1980; provided, however, that of the amount appropriated in this subdivision, the sum of five hundred thirty thousand dollars ($530,000) may not be encumbered unless and until the Department of Conservation submits, and the Department of Finance approves, a plan of expenditure that includes the following:

(1) Assistance to lead agencies under the act.

(2) Classification and designation of mineral resources pursuant to the act.

(3) Monitoring of compliance with the requirements of the act, including any surveys or studies necessary therefor.

SEC. 14. Section 3800 of the Public Resources Code, as added by Chapter 139 of the Statutes of 1980, is amended to read:

3800. The purpose of this chapter is to provide for the allocation of revenues distributed to the state pursuant to Section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States Bureau of Land Management, the United States Forest Service, and other federal agencies undertaken pursuant to the Geothermal Steam Act of 1970 (Chapter 23 (commencing with Section 1001) of Title 30 of the United States Code) in order to accomplish the following general objectives:

(a) Reduction of dependence on fossil fuels and stimulation of the state's economy through development of geothermal resources.

(b) Mitigation of the adverse social, economic, and environmental impacts of geothermal development.

(c) Financial assistance to cities, counties, and districts to offset

the costs of providing public services and facilities necessitated by the development of geothermal resources within their jurisdictions.

(d) Maintenance of the productivity of renewable resources through the investment of the proceeds of a depleting resource.

SEC. 15. Section 3806 of the Public Resources Code, as added by Chapter 139 of the Statutes of 1980, is amended to read:

3806. "County of origin" means any county in which the United States has leased lands for geothermal development.

SEC. 16. Section 3820 of the Public Resources Code, as added by Chapter 139 of the Statutes of 1980, is amended to read:

3820. (a) The Geothermal Resources Development Account is hereby created in the General Fund.

(b) All revenues received by the state pursuant to Section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities undertaken pursuant to the Geothermal Steam Act of 1970 (Chapter 23 (commencing with Section 1001) of Title 30 of the United States Code) shall be deposited in the Geothermal Resources Development Account immediately upon receipt, and are hereby continuously appropriated from the account for expenditure or transfer in the manner and at the times specified in this article.

(c) Commencing with the 1980–81 fiscal year, two million dollars ($2,000,000), or so much thereof as may be necessary, of the revenues received by the state pursuant to Section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), from sources other than activities undertaken pursuant to the Geothermal Steam Act of 1970 (Chapter 23 (commencing with Section 1001) of Title 30 of the United States Code) shall be deposited each fiscal year in the account until a total amount is deposited which is equal to the revenues that were received by the state on and after January 1, 1976, from activities undertaken pursuant to the Geothermal Steam Act of 1970, but which were not deposited in the account pursuant to subdivision (b). The revenues so deposited are hereby continuously appropriated from the account for expenditure or transfer in the manner and at the times specified in this article. The deposit of revenues required by this subdivision are in addition to the deposit of revenues required by subdivision (b).

SEC. 17. Any federal funds received by the State Controller on or about May 14, 1980, pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191), with respect to activities undertaken pursuant to the Geothermal Steam Act of 1970 (Chapter 23 (commencing with Section 1001) of Title 30 of the United States Code), and subject to a temporary restraining order and order to show cause issued June 6, 1980, by the Superior Court of the State of California in and for the County of Sacramento in Energy Resources Conservation and Development Commission, et al. v. Kenneth Cory, et al., No. 288967, are hereby transferred, on the effective date of any release of these funds from the court's jurisdiction, to the Geothermal Resources Development Account in

the General Fund and are hereby appropriated as provided in Section 3820 of the Public Resources Code.

SEC. 18. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to conform state law to the intent expressed in the federal Land Policy and Management Act of 1976 (P.L. 74-579), and amendments made thereby to the Mineral Lands Leasing Act of 1920, that federal revenues derived from mining activities on federal lands and remitted to affected states, including the State of California, be expended by those states for the purpose of mitigating the impacts of mineral development, and, accordingly, to transfer, commencing with the 1980–81 fiscal year, the Department of Conservation's support for surface mining and reclamation activities from the General Fund to such federal revenues, it is necessary that this act take effect immediately.

CHAPTER 801

An act to amend Sections 16496.5, 16497.5, 16498, 16499, and 16499.5 of the Government Code, to amend Sections 95, 96, 97, 98, 99, 100, 100.1, 100.2, 100.3, and 2215 of, and to add Sections 97.5 and 99.1 to, the Revenue and Taxation Code, and to amend Section 10 of Chapter 852 of the Statutes of 1979, relating to funding of local agencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 16496.5 of the Government Code is amended to read:

16496.5. It is the purpose of the Local Agency Indebtedness Fund to provide loans, with a maximum term of 20 years, to local agencies for the purpose of protecting the credit of the state and local agencies by preventing a default, technical or actual, in the payment of a bond of a local agency during the 1978–79, 1979–80, and 1980–81 fiscal years

while local agencies are reorganizing revenue sources which support payments on such bonds.

SEC. 2. Section 16497.5 of the Government Code is amended to read:

16497.5. There is hereby created in the State Treasury the Local Agency Indebtedness Fund. Loans shall be available to local agencies from such fund for the purpose of making payments due on bonds during the 1978–79, 1979–80, and 1980–81 fiscal years in order to prevent a technical or actual default from occurring in the payments required on such bonds during such fiscal year.

SEC. 3. Section 16498 of the Government Code is amended to read:

16498. Any local agency may apply to the board, by no later than June 30, 1981, for a loan pursuant to this article, after the adoption by the legislative body of the local agency of a resolution containing all of the following:

(a) A statement of the amount of principal and interest required to be paid for the 1978–79, 1979–80, or 1980–81 fiscal year on bonds issued and outstanding by the local agency and the time or times at which such principal and interest are payable;

(b) A statement of the amount of local revenues budgeted and available for the payment of principal and interest due on such bonds;

(c) A statement of the amount required as a loan from the Local Agency Indebtedness Fund to the local agency in order to avoid a technical or actual default in payments due on such bonds; and

(d) Where bonds have been issued which are secured by tax increment, evidence that the taxes allocated under subdivision (b) of Section 33670 of the Health and Safety Code are inadequate to make the principal and interest payments on bonds due during the 1978–79, 1979–80, or 1980–81 fiscal year.

SEC. 4. Section 16499 of the Government Code is amended to read:

16499. The board shall make a loan to a local agency applying for such loan in order to prevent an imminent default on the bonds of such local agency. All loans shall bear the same interest rate as loans from the Local Agency Emergency Loan Fund. The interest on such loans shall accrue until final payment. All loans shall have a maximum repayment period of 20 years from the date of approval of the loan. The board may make such loan only after a finding that:

(a) The local agency has insufficient funds to make principal and interest payments during the 1978–79, 1979–80, or 1980–81 fiscal year; and

(b) Where bonds have been issued which are secured by tax increment, evidence that the taxes allocated under subdivision (b) of Section 33670 of the Health and Safety Code are inadequate to make the principal and interest payments on bonds due during the 1978–79, 1979–80, or 1980–81 fiscal year.

SEC. 5. Section 16499.5 of the Government Code is amended to

read:

16499.5. The board may adopt reasonable rules to administer the Local Agency Indebtedness Fund in accordance with the intent of this article, to protect the credit of the state and its local agencies by preventing imminent defaults on bonds on local agencies during the 1978–79, 1979–80, and 1980–81 fiscal years and to give local agencies time to reorganize revenue sources for the payments due on such bonds.

SEC. 6. Section 95 of the Revenue and Taxation Code is amended to read:

95. For the purpose of this chapter,

(a) "Local agency" means a city, county, city and county, and special district, as such terms are defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4; provided, that the Bay Area Air Quality Management District shall be considered a special district.

(b) "Jurisdiction" means a local agency, school district, community college district, or county superintendent of schools.

For jurisdictions located in more than one county, the county auditor of each county in which such jurisdiction is located shall, for the purposes of computing the amount for such jurisdiction pursuant to this chapter, treat the portion of the jurisdiction located within that county as a separate jurisdiction.

(c) "Property tax revenue" includes the amount of state reimbursement for the homeowners' and business inventory exemptions.

"Property tax revenue" does not include the amount of property tax levied for the purpose of making payments for the interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of, and Sections 39308, 39311, 81338, and 81341 of the Education Code, and Section 26912.7 of the Government Code.

(d) "Taxable assessed value" means total assessed value minus all exemptions other than the homeowners' and business inventory exemptions.

(e) "Jurisdictional change" includes a change of organization, as defined in Section 35027 of the Government Code, an incorporation, as defined in Section 35037 of the Government Code, a municipal reorganization, as defined in Section 35042 of the Government Code, a change of organization, as defined in Section 56028 of the Government Code, a formation, as defined in Section 56042 of the Government Code, and a reorganization, as defined in Section 56068 of the Government Code. "Jurisdictional change" also includes any change in the boundary of those special districts defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4 which are not under the jurisdiction of a local agency formation commission; provided, that the Bay Area Air Quality Management District shall be considered a special district.

Jurisdictional change shall also include a functional consolidation where two or more local agencies, except two or more counties, exchange or otherwise reassign functions and any change in the boundaries of a school district or community college district or county superintendent of schools.

(f) "School entities" means school districts, community college districts, and county superintendents of schools.

(g) Except as otherwise provided in this subdivision, "tax-rate area" means a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities for the current fiscal year.

In the case of a jurisdictional change pursuant to Section 99, the area subject to such change shall constitute a new tax-rate area, except that if the area subject to change is within the same combinations of local agencies and school entities as an existing tax rate area the two tax rate areas may be combined into one tax rate area.

(h) "State assistance payments" means:

(1) For counties and cities and counties, amounts determined pursuant to subdivision (b) of Section 16260 of the Government Code, increased by the amount specified for each county pursuant to Section 94 of the act adding this section to the Revenue and Taxation Code, with the resultant sum reduced by an amount derived by the calculation made pursuant to Section 16713 of the Welfare and Institutions Code.

(2) For cities, 82.91 percent of the amounts determined pursuant to subdivisions (b) and (i) of Section 16250 of the Government Code plus for any city an additional amount equal to one-half of the amount of any outstanding debt as of June 30, 1978, for "museums" as shown in the State Controller's "Annual Report of Financial Transactions of Cities for Fiscal Year 1977–78."

(3) For special districts, 95.24 percent of the amounts received pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code, Section 35.5 of Chapter 332 of the Statutes of 1978, and Chapter 12 of the Statutes of 1979.

(i) "City clerk" means the clerk of the governing body of a city or city and county.

(j) "Executive officer" means the executive officer of a local agency formation commission.

SEC. 7. Section 96 of the Revenue and Taxation Code is amended to read:

96. For the 1979–80 fiscal year only, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to the allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, as follows:

(a) For each tax rate area, each local agency shall be allocated an amount of property tax revenue equal to the sum of the amount of

property tax revenue allocated pursuant to Section 26912 of the Government Code to each local agency for the 1978–79 fiscal year, as allocated to such tax rate area pursuant to paragraph (1) of subdivision (f) of Section 98, modified by any adjustments required by Section 99, and the amount of state assistance payments allocated to such tax rate area pursuant to paragraph (2) of subdivision (f) of Section 98.

(b) The auditor shall determine the school entities' share of the 1979–80 property tax revenue by subtracting the state assistance payments allocated to local agencies within the county for the 1978–79 fiscal year from the aggregate amount of property tax revenue allocated pursuant to Section 26912 of the Government Code to all school entities within the county for the 1978–79 fiscal year. The amount of the difference shall be the school entities' share of property taxes for fiscal year 1979–80, and shall be allocated to the school entities in the same proportion as the allocation made to such entities for the 1978–79 fiscal year. The amount for each school entity shall be allocated among its tax rate areas pursuant to paragraph (3) of subdivision (f) of Section 98.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivisions (a) and (b) shall be allocated pursuant to Section 98.

(d) For the purposes of computing property tax allocations for the 1978–79 fiscal year and each year thereafter, the county auditor shall recompute the 1978–79 property tax allocation for any city which levied a utility users' tax prior to 1978 but repealed such tax prior to December 31, 1977. For such cities, the term "property tax revenues for the 1975–76, 1976–77, and 1977–78 fiscal years" shall be deemed to include the aggregate of property tax and utility users' tax for those respective years.

SEC. 8. Section 97 of the Revenue and Taxation Code is amended to read:

97. For the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment".

SEC. 9. Section 97.5 is added to the Revenue and Taxation Code, to read:

97.5. For the purpose of apportioning property tax revenues each fiscal year:

(a) The amount of property tax revenue allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97, modified by any adjustments made pursuant to Section 99, and subdivision (e) of Section 98, shall be combined to compute the total amount of property tax revenue allocated to the jurisdiction with respect to the tax rate area.

(b) The total amount of property tax revenue allocated to each jurisdiction with respect to all tax rate areas as determined pursuant to subdivision (a) shall be added to compute a total amount of property tax revenue for a jurisdiction in all tax rate areas.

(c) Each amount determined pursuant to subdivision (b) shall be divided by the total of all such amounts computed. The quotient determined shall be used to apportion actual property tax collections and shall be known as the "property tax apportionment factors."

(d) For 1980–81 and each year thereafter, the property tax apportionment factors for the current year shall be used to apportion the total amount paid to a county annually for reimbursement of tax loss from business inventory exemptions pursuant to Chapter 1150 of the Statutes of 1979.

(e) For 1980–81 and each year thereafter, prior years' property tax revenues shall be apportioned using the factors determined pursuant to subdivision (c) for the immediately preceding fiscal year.

(f) For 1979–80, prior years' property tax revenues shall be apportioned using the tax allocation factors computed pursuant to Section 26912 of the Government Code.

(g) Notwithstanding the provisions of this section property tax revenues may be apportioned by tax rate area.

SEC. 10. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal

year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) The amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 11. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 97, or the annual tax increment determined pursuant to Section 98, for local agencies whose service area or service responsibility would be altered by such jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation or a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 54790.3 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 54790.3 in the allocation of property tax revenue determined pursuant to Section 96 or 97 for each local agency whose service area or service responsibilities would be altered by such incorporation or formation.

(b) Upon the filing of an application or a resolution pursuant to the Municipal Organization Act (Part 2 (commencing with Section 35000) of Division 2 of Title 4 of the Government Code) or the District Reorganization Act of 1965 (Part 1 (commencing with Section 56000) of Division 1 of Title 6 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of such filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. Such notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory which is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96 or 97, and Section 98, notwithstanding the provisions of Section 98.6.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax

revenue estimated pursuant to paragraph (2) which is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among such local agencies. Such negotiation period shall not exceed 30 days.

Such exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

During any negotiation period, all revenue from such annual tax increment which has not yet been distributed to such local agencies for the fiscal year or years in which negotiations take place shall be impounded. The auditor shall determine the amount of revenue, attributable to the annual tax increment, to be impounded based on the estimate made pursuant to paragraph (2).

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 54791 of the Government Code until such local agencies included in the property tax revenue exchange negotiation, within the 30-day negotiation period, present resolutions adopted by each such county and city whereby each such county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4) to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the local agencies whose service area or service responsibilities would be

altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. Such notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, such local agencies, pursuant to the provisions of paragraphs (4), (5), and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among such local agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in such negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. Such exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a).

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. Such agreement may be revised from time to time by the parties subject to such agreement.

(e) Except as otherwise provided in subdivision (f), for the purpose of determining the amount of property tax to be allocated in 1979–80 and thereafter for those local agencies which were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978 but on or before January 1, 1979, the auditor shall impound all revenue from the annual tax increment attributable to the tax rate area or areas within the territory subject to the jurisdictional change for such affected local agencies, until such local agencies determine by resolution the amount of property tax revenues to be exchanged between and among such affected agencies and notify the auditor of such determination.

(f) For the purpose of determining the amount of property tax to be allocated in 1979–80 and thereafter, for a city incorporation which was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by such jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission

staff report pertaining to such incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for such incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and thereafter for incorporations approved by the voters in June 1979.

(g) For the purpose of the computations made pursuant to this section, in the case of a district formation which was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1978, but before January 1, 1979, the amount of property tax to be allocated to such district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(h) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 97, or the annual tax increment determined pursuant to Section 98, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by such jurisdictional change, as determined as follows:

(1) The governing body of each such district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by such change shall determine the amount of property tax revenues to be exchanged between and among such affected jurisdictions. Such determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that such affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution, within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as

provided in subdivision (a).

(i) For purposes of subdivision (h), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In such negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to such annexation for the purposes of paying tuition expenses of residents enrolled in such community college district, adjusted each year by the percentage change in population and the percentage change in cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

SEC. 11.5. Section 99.1 is added to the Revenue and Taxation Code, to read:

99.1. (a) For the purposes of Section 99, in the case of a jurisdictional change which will result in a special district providing one or more services to an area where such services have not been previously provided by any local agency, the following shall apply:

(1) The special district referred to in this subdivision and each local agency which receives an apportionment of property tax revenue from the area shall be considered local agencies whose service area or service responsibility will be altered by the jurisdictional change.

(2) The exchange of property tax among such local agencies shall be limited to property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to such local agencies.

(3) Notwithstanding the provisions of paragraph (5) of subdivision (b) of Section 99, any special district affected by the jurisdictional change may negotiate on its own behalf, if it so chooses.

(4) If a special district involved in the negotiation (other than the district which will provide one or more services to the area where such services have not been previously provided) fails to adopt a resolution providing for the exchange of property tax revenue, the board of supervisors of the county in the area subject to the jurisdictional change is located shall determine the exchange of property tax revenue among such local agencies.

(b) The provisions of subdivisions (a), (b), (c) and (d) of Section 99 not in conflict with this section shall apply. The jurisdictional changes described in subdivisions (e), (f), (g), (h), and (i) of Section 99 shall not be affected by the provisions of this section.

SEC. 11.7. Section 100 of the Revenue and Taxation Code is amended to read:

100. (a) On or before August 31, 1979, and on or before August 31 of each year thereafter, any jurisdiction may request that the amount computed for it pursuant to this chapter be reduced for the current fiscal year by a specified amount. Upon such request, the county auditor shall compute an effective tax rate reduction by dividing the amount of property tax revenue to be reduced by the taxable assessed value on the secured roll of the jurisdiction and multiplying the quotient by 100. The effective tax rate reduction shall be applied to the taxable assessed value on each secured roll tax bill for property within the jurisdiction, and the resulting amount shall be subtracted from the property tax owed by the taxpayer which is attributable to the tax rate provided by subdivision (b) of Section 2237. This subtracted amount shall be shown on each such tax bill with a notation reading: "Tax reduction by (name of jurisdiction)." The same effective tax rate reduction shall be applied in a comparable manner to the taxable assessed value on the next succeeding unsecured roll tax bill for property within the jurisdiction, except that for the 1981–82 fiscal year any such rate reduction used on that year's unsecured roll shall be equal to the 1980–81 rate divided by four.

(b) Notwithstanding any other provision of law, if a school entity acts pursuant to subdivision (a), the state shall not increase school apportionments to such school entity to make up the reduction in property tax revenues.

(c) Effective tax rate reductions made pursuant to this section shall not be taken into account in computing property tax allocations pursuant to Sections 95 to 99, inclusive, of this chapter, except that for the 1981–82 fiscal year any such rate reduction used on that year's unsecured roll shall be equal to the 1980–81 rate divided by four.

SEC. 12. Section 100.1 of the Revenue and Taxation Code is amended to read:

100.1. (a) The Superintendent of Public Instruction shall determine in August of each year the total statewide roll of assessed value as reported to the State Board of Equalization. Commencing with the 1979–80 fiscal year, the Superintendent shall determine the percentage increase in assessed value during the current year compared to the previous year. The Superintendent shall further determine the extent to which the actual percentage increase in statewide assessed value exceeds the target assessed value estimate for revenue needs. When computing the growth in assessed value for the 1981–82 fiscal year over the 1980–81 fiscal year, the 1980–81 assessed values shall be multiplied by four.

(b) For the purposes of this section, the target assessed value estimate for revenue needs shall be:

For fiscal year 1979–80	10.0 percent
For fiscal year 1980–81	9.0 percent
For fiscal year 1981–82	8.5 percent
For fiscal year 1982–83	8.0 percent

For fiscal years 1983–84 and thereafter, such estimated percentage

increase in assessed value shall be made by the Board of Equalization, with the concurrence of the Department of Finance, and shall be published in the Governor's Budget.

(c) The superintendent shall perform the following calculations:

(1) He or she shall calculate the percentage difference between actual assessed value growth and the target assessed value estimate for revenue needs and shall multiply the difference by the actual reported assessed value for the current year.

(2) He or she shall calculate the percentage of property tax revenues allocated for school districts during the preceding year compared to the total property tax revenues allocated for school districts, cities, counties, and special districts for the preceding fiscal year.

(3) He or she shall multiply the percentage of school district property tax revenue derived in paragraph (2) by the excess assessed value growth computed in paragraph (1), and this product shall be multiplied by .04, except beginning with the 1981–82 fiscal year, this product shall be multiplied by .01. This amount shall annually be transferred from the State General Fund to the State School Building Lease-Purchase Fund, or its successor.

(d) The provisions of this section shall have no force or effect if reductions are made pursuant to subdivision (a) or (c) of Section 100.5.

SEC. 13. Section 100.2 of the Revenue and Taxation Code is amended to read:

100.2. (a) Notwithstanding any other provision of law, the Controller shall reduce the cigarette tax subvention and, if necessary, the business inventory tax reimbursement to a local jurisdiction by an amount of excess sales tax computed pursuant to subdivision (b).

(b) (1) Each city, county, and city and county shall estimate in its budget for the next fiscal year the amount of the 1 percent local sales tax to be collected in that fiscal year.

(2) Each city, county, and city and county shall estimate in its budget the amount of the 1 percent local sales tax in the current fiscal year, adjusted for changes in cost of living and population in the jurisdiction. Such adjustment shall be made in the same manner as the change is calculated for the purpose of establishing the appropriations limit pursuant to Article XIII B of the Constitution.

(3) The amount, if any, by which the amount estimated pursuant to paragraph (1) exceeds the amount estimated pursuant to paragraph (2) shall be identified in the budget.

(4) From the amount identified in the budget pursuant to paragraph (3), the jurisdiction shall subtract any amount necessary to bring the jurisdiction up to the appropriations limit provided in the Constitution, prior to the reduction of any proceeds of taxes.

(5) One-half of the remainder shall be identified as "excess sales tax."

(6) Each jurisdiction shall report its estimate of excess sales tax quarterly to the Controller.

(c) The amount withheld by the Controller pursuant to subdivision (a) shall be transferred to the State School Building Lease-Purchase Fund established pursuant to Section 17708 of the Education Code, or its successor, and shall be used solely for the construction of new school buildings for grades K–12.

(d) For the purposes of this section, "jurisdiction" means city, county, or city and county.

(e) The Controller shall make adjustments during the year to adjust the reductions of subventions pursuant to subdivision (a) to correct for estimating errors.

(f) The Controller may adopt rules and regulations to carry out the provisions of this section.

(g) This section shall become operative only if a constitutional amendment which limits state and local spending is approved by the voters at the special election held November 6, 1979.

SEC. 14. Section 100.3 of the Revenue and Taxation Code is amended to read:

100.3. (a) Notwithstanding any other provision of law, the Controller shall reduce the cigarette tax subvention and, if necessary, the business inventory tax reimbursement to a local jurisdiction by an amount of excess property tax computed pursuant to subdivision (b).

(b) (1) Each city, county, and city and county shall estimate in its budget for the next fiscal year the amount of property tax to be collected in that fiscal year.

(2) Each city, county, and city and county shall estimate in its budget the amount of property tax in the current fiscal year, adjusted for changes in cost of living and population in the jurisdiction. Such adjustment shall be made in the same manner as the change is calculated for the purpose of establishing the appropriations limit pursuant to Article XIII B of the Constitution.

(3) The amount, if any, by which the amount estimated pursuant to paragraph (1) exceeds the amount estimated pursuant to paragraph (2) shall be identified in the budget.

(4) From the amount identified in the budget pursuant to paragraph (3), the jurisdiction shall subtract any amount necessary to bring the jurisdiction up to the appropriations limit provided in the Constitution, prior to the reduction of any proceeds of taxes.

(5) One-fourth of the remainder shall be identified as "excess property tax."

(6) Each jurisdiction shall report its estimate of excess property tax quarterly to the Controller.

(c) The amount withheld by the Controller pursuant to subdivision (a) shall be transferred to the State School Building Lease-Purchase Fund established pursuant to Section 17708 of the Education Code, or its successor, and shall be used solely for the construction of new school buildings for grades K–12.

(d) For the purposes of this section, "jurisdiction" means city, county, or city and county.

(e) The Controller shall make adjustments during the year to adjust the reductions of subventions pursuant to subdivision (a) to correct for estimating errors.

(f) The Controller may adopt rules and regulations to carry out the provisions of this section.

(g) This section shall become operative only if a constitutional amendment which limits state and local spending is approved by the voters at the special election held November 6, 1979.

SEC. 15. Section 2215 of the Revenue and Taxation Code is amended to read:

2215. "Special district" means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. "Special district" does not include a city, a county, a school district or a community college district. "Special district" does not include any agency which is not authorized by statute to levy a property tax rate. However, for the purpose of the allocation of property taxes pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and notwithstanding Section 2237, any special district authorized to levy a property tax by the statute under which the district was formed shall be considered a special district.

SEC. 16. Section 10 of Chapter 852 of the Statutes of 1979 is amended to read:

Sec. 10. Notwithstanding the provisions of subdivision (b) of Section 99 of the Revenue and Taxation Code, any formation, organization, or incorporation of any public body, or any annexation thereto, or exclusion therefrom, or other change of boundaries thereof, or the consolidation, merger or dissolution of any public body, which was filed under Section 54900, 54901, 54902, 54903 or 54904 of the Government Code between January 2, 1978 and July 24, 1979, is hereby confirmed, validated and declared legally effective.

For purposes of determining the amount of property tax to be allocated in the fiscal year such creation or change in boundaries becomes effective for purposes of taxation and thereafter for the public bodies described in this section, the provisions of subdivisions (d) and (e) of Section 99 of the Revenue and Taxation Code shall apply.

SEC. 17. Notwithstanding any other provision of law, for the purposes of Sections 97 and 98 of the Revenue and Taxation Code, a county board of supervisors may allocate property tax for the 1980–81 fiscal year and fiscal years thereafter to a special district created on June 6, 1978. If it chooses to allocate property tax to such district the auditor shall assume that the amount of property tax received in 1978–79 by the district is equal to an amount determined by the board of supervisors, but in no event shall such amount exceed

the amount the district would have received if the district had levied two-thirds of its maximum tax rate in 1978–79.

SEC. 17.5. Notwithstanding any other provision of law for the 1980–81 fiscal year, any local agency required by law to adopt a budget shall adopt such budget no later than September 30, 1980. Any other deadlines required for the development of the budget may be delayed 30 days.

SEC. 17.8. Notwithstanding any provision of law which requires a tax rate to be set by a local agency on or before a specific date, the tax rate may be set by the local agency 30 days after that date prescribed by law.

SEC. 18. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that this act, which would provide for a more orderly implementation of the mandate of Article XIII A of the California Constitution, as added pursuant to the passage of Proposition 13 at the 1978 Direct Primary Election, may be effective during the 1978–79 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 802

An act to amend Section 423.7 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 423.7 of the Revenue and Taxation Code is amended to read:

423.7. (a) When valuing open-space land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, the board, for purposes of surveys required by Section 1815, and all assessors shall value such land by using the average current per-acre value based on recent sales including the sale of an undivided interest therein, of lands subject to a wildlife habitat contract within the same county. Where ownership of open-space land is held by a

corporation and the principal underlying asset of said corporation is represented by such lands, the price received for each bona fide sale of shares of stock in such corporations or certificates of membership in nonprofit corporations shall be treated as a sale of open-space land by the assessor in determining average value for open-space lands within the meaning of this section.

(b) In the valuation of open-space land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421, irrespective of the number of parcels represented by a single ownership, the assessor shall use sales of less than 150 acres in determining the average value of such lands only if the sale is of an undivided interest of land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421. The assessor shall not use any other sale of less than 150 acres of land.

(c) In the event of sales of corporate stock or membership, as referred to in subdivision (a), the assessor shall determine the average per-acre sales price and multiply such sales price by the number of acres held under the single ownership from which such land was sold, in order to determine the current total value of the single ownership.

(d) The assessor shall then determine the average current per-acre value of such land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, by adding the current value of all such lands including corporate sales as set forth in subdivision (c), of which there has been a recent sale, and then dividing the total current value by the total number of acres of all such land of which there has been a recent sale.

(e) Where less than 10 years remain to the expiration of a wildlife habitat contract, the value of land determined under subdivision (a) shall be modified pursuant to this subdivision. If the full cash value of such land as determined under Section 405 is greater than the value determined under subdivision (a) of this section, a pro rata share of the amount of such difference shall be added in annual equal installments to the value determined pursuant to subdivision (a) over the remaining term of the wildlife habitat contract.

(f) Owners of open-space land subject to a wildlife habitat contract which has been used exclusively for habitat by native or migratory wildlife, recreation, and native pasture shall report the sale of such land, or an interest therein, to the county assessor within 30 days of such sale.

(g) The value determined under subdivision (a) or (b) shall be adjusted by the factor described in Section 401.

(h) In the event that a wildlife habitat contract is canceled upon the application of an owner of the land covered by such contract, a penalty equal to 6 percent of the full cash value of such land as determined under Section 405 on the lien date next following such cancellation shall be imposed. Such penalty shall become delinquent on the December 10 next following such lien date and shall be treated in all respects as a delinquent penalty imposed under Section

2617 or 2704. This subdivision shall not apply when a wildlife habitat contract is canceled without the consent of an owner of the land affected.

(i) The provisions of Section 426 shall not apply to any lands valued for assessment purposes pursuant to the provisions of this section.

(j) The assessor shall not value any land under a single ownership under this section unless the owners of such land have provided the assessor with a schedule of sales of such land that have occurred during the previous four years.

(k) If there are no prior sales within the county of open-space land subject to a wildlife contract and used exclusively for habitat by native or migratory wildlife, recreation, and native pasture, the assessor shall value such land pursuant to Section 405.

(*l*) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the method described in this section shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though such property was not subject to an enforceable restriction in the base year.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it under this act, because any property tax revenues lost would be as a result of a constitutional amendment approved by the voters.

CHAPTER 803

An act to add Article 5 (commencing with Section 500) to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, and to add and repeal Chapter 8.2 (commencing with Section 25720) of Division 15 of the Public Resources Code, relating to fuel, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Article 5 (commencing with Section 500) is added to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, to read:

Article 5. Ethanol Fuel

500. The department shall implement and manage a program to fund loans pursuant to this article for small to medium size ethanol

production facilities not exceeding a capacity of one million gallons annually.

501. The purposes of the program are to accomplish all of the following:

(a) Assist in the development of 40 to 60 small to medium size ethanol fuel plants at different locations in the state.

(b) Provide a practical experience for farmers, food processors, cooperatives, plant manufacturers, and financial institutions, and to encourage further successful development of the agriculture-based energy sector in the state.

(c) Evaluate the technical and economic feasibility of small to medium size ethanol fuel plants.

(d) Establish a new viable sector contributing to the economic development of rural areas in the state.

(e) Utilize agricultural products, byproducts, and waste for the production of motor vehicle fuel.

(f) Create additional marketing outlets for farm commodities, thereby enhancing the productivity of California agriculture.

502. The department shall adopt criteria to evaluate project proposals which may receive low interest rate loans for the development and production of ethanol fuel.

503. The criteria adopted by the department pursuant to Section 502 shall include, but not be limited to, the following:

(a) Use of agricultural byproducts, waste products, nonmarketable products, and crops produced in the state as a feedstock for the biomass-to-fuel conversion process.

(b) Production of 100° to 190° proof ethanol fuel alcohol.

(c) Use of ethanol as a pure fuel, or in blends with gasoline or diesel fuel, for tractors, trucks, self-propelled equipment, passenger cars, and other motor vehicles.

(d) Marketing, if applicable, of surplus ethanol as pure fuel or for further production of anhydrous alcohol.

(e) Utilization of agricultural or forestry products, including byproducts, and waste, solar, geothermal, and other renewable resources to provide a major portion of energy input for a conversion process.

(f) Input of fossil fuels in the conversion process to be minimized or completely excluded.

(g) Utilization of conversion byproducts as feed, fertilizers, or industrial feedstock.

(h) Location of the ethanol plant to be close to the source of biomass.

(i) Plant to comply with all requirements of environmental quality standards.

(k) Plant to comply with the rules and regulations of the United States Bureau of Alcohol, Tobacco, and Firearms.

(*l*) Submission of financial information regarding the proposal.

504. The technical aspects of the applications for loans shall be evaluated by the department, the University of California, the State

Energy Resources Conservation and Development Commission, and the Solid Waste Management Board.

The financial aspects of the applications for loans shall be evaluated by the department and the Department of Economic and Business Development.

505. The Ethanol Fuel Revolving Account is hereby created in the Department of Agriculture Fund and all funds in the account are continuously appropriated to the department to carry out the purposes of this article.

SEC. 2. Chapter 8.2 (commencing with Section 25720) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 8.2. REFINED PETROLEUM PRODUCTS ALLOCATION

25720. (a) The Legislature finds and declares as follows:

(1) The Emergency Petroleum Allocation Act of 1973 (15 U.S.C. Section 751 et seq.) provides that a state may administer a state set-aside program of refined petroleum products to serve the hardship and emergency requirements of its citizens for various types of fuels.

(2) The commission has administered a state set-aside program for motor gasoline and middle distillate fuels pursuant to federal delegation of authority and gubernatorial executive order.

(3) The state set-aside program has benefited all sectors of California's economy by allocating fuel on a short-term basis to those persons experiencing hardship or emergency conditions caused by insufficient supplies of fuel.

(4) The state set-aside program has been of particular benefit to the agricultural and rural communities, allowing them to secure adequate fuel when the existing market system could not provide such communities with fuel.

(5) Because of the continued uncertainty concerning the future availability of fuels, it is necessary to administer the state set-aside program on a more permanent basis to ensure greater stability in its operations.

(6) It is in the public interest for California to continue to administer a state set-aside program to alleviate the effects of fuel-related hardship and emergency conditions on its citizens, particularly those who reside in agricultural and rural communities.

(7) Allocations from the state set-aside reserve should not be requested or made as a substitute for the diligent and earnest efforts by an applicant to acquire necessary supplies without government intervention. An assignment should not be requested when the applicant could remedy the emergency or hardship by adopting sound conservation measures.

(8) Because the workload of the state set-aside program varies throughout the year, depending upon the fuel market conditions, it is necessary to provide for variable staffing levels within the state set-aside program to ensure efficiency in state government.

(9) To ensure program integrity, it is necessary to establish an audit function for the state set-aside program.

(b) It is, therefore, the intent of the Legislature, in enacting this chapter, that the commission shall efficiently operate the state set-aside program as part of its energy responsibilities.

25720.5. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) The definition of the terms and phrases contained in Subpart B of Part 211 of the Code of Federal Regulations are herein incorporated by reference for the purposes of this chapter.

(b) "Community" means any of the following:

(1) A county, city, or any unincorporated area within a designated United States postal area.

(2) A military base exchange.

(3) Any geographic area that consists of 50 square miles or greater.

(4) Any geographic area that consists of five square miles or greater and that contains at least 10 retail gasoline outlets.

(c) "Distributor" means any person that supplies, sells, transfers, consigns, or otherwise furnishes fuel to a wholesale purchaser-consumers or end-users that have bulk storage capacity. Gasoline retailers are not distributors for the purposes of this chapter.

(d) "Gasoline retailer" means any person that sells motor gasoline to the motoring public at the pump. Gasoline retailer includes, but is not limited to, gasoline service stations and retail markets that sell gasoline to the public.

(e) "Statewide average allocation fraction" means the expected allocable supply of gasoline for the coming month divided by the supply obligation for the same month of all prime suppliers.

25721. (a) In accordance with this chapter, the commission shall establish a Fuel Allocation Office to administer a state set-aside program consistent with the regulations of the Department of Energy contained in Parts 205 and 211 of Title 10 of the Code of Federal Regulations.

(b) In employing personnel to perform the functions necessary to comply with this chapter, the commission shall maintain a core staff, of not to exceed 21 person years, to meet the normal workload requirements of the program. It shall also contract for services with other agencies or hire additional staff to meet the workload requirements whenever there are significant fuel shortages in California. At all times, the commission shall maintain sufficient staff to ensure expeditious processing of all applications for fuel.

(c) Whenever the commission finds that a significant fuel shortage is about to occur, or is currently existing, in California, the commission shall notify the Department of Finance, the chairman of the committee in each house which considers appropriations, and the Chairman of the Joint Legislative Budget Committee. The Director of Finance may authorize the expenditure of funds appropriated and allocated to the Fuel Allocation Reserve Account for use during the periods of significant fuel shortages in California,

as additional funds necessary to carry out the commission's responsibilities pursuant to this chapter. The allocation specified in this subdivision shall be made no sooner than 30 days after notification in writing of the necessity therefor to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairman of the committee, or his designee, may in each instance determine. In any event, any decision by the Director of Finance shall be made not later than 60 days after notification of the Chairman of the Joint Legislative Budget Committee.

25722. When there are inadequate supplies of state set-aside fuel to meet all existing hardship and emergency demands, the commission shall attempt to meet demonstrated fuel requirements with the following categories receiving first priority: agriculture, including agricultural trucking (with preference to seasonal users); emergency services; providers of services essential to the public health, safety, and welfare; and the trucking industry. The commission may establish a list of additional priorities in accordance with the federal law and regulations to carry out the objectives of this chapter.

25723. (a) Any wholesale purchaser-consumer, end-user, or gasoline retailer, as representative for all gasoline retailers within a community, whose inability to obtain sufficient motor gasoline or middle distillate fuel will create a significant and immediate threat to the public health, welfare, or safety, shall qualify for an allocation from the state set-aside if the applicant complies with the application filing requirements established pursuant to this chapter and the application is approved.

(b) The commission shall, by regulation, adopt criteria for determining whether or not an applicant's inability to obtain fuel will create a significant and immediate threat to the public health, welfare, or safety.

25724. (a) It shall be presumed that a hardship or emergency requirement for motor gasoline or middle distillate fuels exists for the following categories of wholesale purchaser-consumers and end-users, if the applicant complies with the application filing requirements established by the commission:

(1) Operators of authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, that cannot obtain through reasonable efforts sufficient fuel to provide their emergency services for the month covered by the application.

(2) Agricultural users who cannot through reasonable efforts obtain sufficient fuel for the month covered by the application to meet crop production, transportation, and harvesting needs.

(3) Wholesale purchaser-consumers or end-users whose gasoline allocation fraction for the month of application is 90 percent or less of the statewide average gasoline allocation fraction for the same month.

(b) It shall be presumed that a community is experiencing a hardship or emergency requirement for motor gasoline, if the average gasoline allocation fraction for the month of the application for all retail outlets within the community is 95 percent or less of the statewide average gasoline allocation fraction for the same month.

25724.5. The commission shall approve an application for state set-aside fuel submitted on behalf of all gasoline retailers within a community, if the community does not have sufficient fuel to meet its basic transportation needs. In determining whether the community has sufficient fuel to meet its basic transportation needs, the commission shall consider, among other things, the following factors based upon the information submitted in the application:

(a) Changes in the population of the community, using the most recent Department of Finance statistics, United States postal service information, or United States census data.

(b) Whether any gasoline retail stations have opened or closed since the corresponding month during the base period.

(c) A showing by the applicant of changed circumstances within the community, such as a new major construction project which supports a finding of increased fuel consumption above the consumption associated with the community's population growth.

(d) Reasonable availability to the community of alternative sources of fuel.

(e) Reasonable availability to the community of alternative methods of transportation and other conservation actions.

25725. (a) The commission shall permit any distributor, at the request of an applicant, to apply for middle distillates, residual fuel oil, motor gasoline, or propane under the state's set-aside program and to file one application on behalf of any eligible wholesale purchaser-consumer or end-user.

(b) Notwithstanding subdivision (a), any wholesale purchaser-consumer or end-user may directly file an application for fuel allocation with the commission, at his discretion.

(c) The applicant shall submit, as part of his application, sufficient information to substantiate his request for fuel. Any such application shall be certified under a penalty of perjury.

(d) The commission shall, from time to time, audit applications submitted by distributors under this section in order to minimize the opportunity for abuse of the state set-aside program.

25726. (a) The commission shall rule upon all applications within 15 days of the receipt of the application or by the fifteenth day of the month for which the application had been filed, whichever is later.

(b) Any wholesale purchaser-consumer or end-user may file an oral application for state set-aside fuel, if the applicant's own hardship or emergency fuel situation requires immediate action in order to avoid an extreme hardship or emergency. A written application in substantiation of an oral application shall be submitted by the applicant or be postmarked within 72 hours after an oral application is made.

(c) The commission shall adopt, by regulation, procedures to ensure independent review of any appeal of a state set-aside, motor gasoline decision. Pursuant to federal regulations, state set-aside, middle distillate decisions are required to be appealed to the United States Department of Energy's regional office of hearings and appeals.

25727. The commission shall distribute the information regarding the state set-aside program and how it relates to the federal gasoline allocation system to all interested parties, including, but not limited to, the agricultural community, rural communities, local governments, and industrial groups. The commission shall also prepare and make available an informational brochure explaining the program and assisting applicants in properly completing application forms.

25728. (a) The commission shall, within 90 days after the effective date of this chapter, adopt procedures for conducting audits with respect to applications for hardship and emergency fuel allocations. The commission shall conduct audits whenever there is a suspicion that fraud is involved or on a random basis with priority to applicants who have applied for at least 10,000 gallons of set-aside fuel.

(b) The audit procedures shall allow the commission to examine books, records, papers, or other documents of any person as necessary and appropriate to assess the accuracy, reliability, and veracity of the information submitted pursuant to the requirements of the state set-aside program.

(c) Every person who submits an application for an allocation or who transports or provides refined petroleum products for an applicant, shall, at the request of the commission, make all books, records, papers, or other documents pertaining to its application available to the commission during regular business hours. Such books, records, papers, or other documents shall be retained by the applicant or distributor for at least two years after filing the application.

25729. The commission shall take all the necessary steps to seek reimbursement from the federal government for state moneys expended in operating the state set-aside program.

25730. The commission shall, within 180 days after the effective date of this chapter and annually thereafter, report to the Legislature on the administration of the state set-aside program. Such report shall include, but not be limited to, the following:

(a) A description of the number and types of applications received and approved by the commission during the preceding period.

(b) A description of the results of the audits conducted by the commission during the preceding year.

(c) Recommendations as to the continued need to operate the state set-aside program in the succeeding fiscal year.

(d) A description of the efforts of the state to seek reimbursement

from the federal government.

(e) Such other information as the commission deems appropriate.

25731. The commission shall establish an advisory committee to advise it in the administration and operation of the Fuel Allocation Office. The advisory committee shall be composed of the following 12 members: three representatives of the agricultural community; one representative of the trucking industry; a gasoline retailer; an independent distributor of petroleum-based products; a representative from an oil company; an emergency services provider; a provider of services essential to the public health, safety, and welfare; a representative from a rural community; a representative from industry; and a public member.

The members of the advisory committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties, as prescribed by the State Board of Control.

25732. This chapter shall remain in effect only until the date that federal law no longer authorizes a state set-aside program or until January 1, 1982, whichever occurs first, and as of that date is repealed, unless a later enacted statute which is chaptered before such date deletes or extends such date.

SEC. 3. The sum of six hundred forty thousand seven hundred twenty-seven dollars ($640,727) is hereby appropriated from the State Energy Resources Conservation and Development Special Account in the General Fund to be allocated as follows:

(a) The sum of two hundred fifty thousand seven hundred twenty-seven dollars ($250,727) to the State Energy Resources Conservation and Development Commission to carry out the purposes of Chapter 8.2 (commencing with Section 25720) of Division 15 of the Public Resources Code.

(b) The sum of three hundred ninety thousand dollars ($390,000) to the Fuel Allocation Revenue Account, which is hereby created, for use during periods of significant fuel shortages in California, to be allocated as set forth in subdivision (c) of Section 25721 of the Public Resources Code.

The sum of five million eight hundred thousand dollars ($5,800,000) of the amount appropriated from the Transportation Planning and Development Account in the State Transportation Fund pursuant to subparagraph (C) of paragraph (3) of subdivision (c) of Section 71 of Chapter 161 of the Statutes of 1979 is hereby transferred as follows:

(a) Three million eight hundred thousand dollars ($3,800,000) to the State Agricultural and Forestry Residue Utilization Account in the General Fund for the purposes of investigating the practicality and cost effectiveness of alternative motor vehicle fuel, including, but not limited to, the production of fuel grade ethanol from agricultural products.

(b) Two million dollars ($2,000,000) to the Ethanol Fuel Revolving Account in the Department of Agriculture Fund of the

amount available under the interagency agreement BT 650-5, dated February 1, 1981, entered into by the Business and Transportation Agency and the Department of Food and Agriculture.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution, and shall go into immediate effect. The facts constituting such necessity are:

In order that the citizens of the state can continue to enjoy the services provided by the state set-aside program for refined petroleum products in making available additional supplies of fuels to alleviate emergency and hardship conditions and in order that additional funds be made available for research in alternative motor vehicle fuel, it is necessary that this act take effect immediately.

CHAPTER 804

An act to amend Sections 25167, 25181, 25182, and 25192 of the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 25167 of the Health and Safety Code is amended to read:

25167. The fees prescribed in Section 25166 shall be payable each year not later than the first day of February or within 30 days after commencing the use of any vehicle to haul hazardous waste, whichever occurs later, and deposited in the Hazardous Waste Control Account in the General Fund for administering the provisions of this chapter.

SEC. 2. Section 25181 of the Health and Safety Code is amended to read:

25181. When the department determines that any person has engaged in, is engaged in, or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or executed thereunder, and when requested by the department, the city attorney of the city in which such acts or practices occur, occurred, or will occur, the district attorney of the county in which such acts or practices occur, occurred, or will occur, or the Attorney General may make application to the superior court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the department that such person has engaged in or is about to engage in any such acts or practices, a permanent or

temporary injunction, restraining order, or other order may be granted.

SEC. 3. Section 25182 of the Health and Safety Code is amended to read:

25182. Every civil action brought under the provisions of this chapter at the request of the department shall be brought by the city attorney, the district attorney, or the Attorney General in the name of the people of the State of California, and any such actions relating to the same processing or disposal of hazardous wastes may be joined or consolidated.

SEC. 4. Section 25192 of the Health and Safety Code is amended to read:

25192. Penalties collected pursuant to this chapter shall be paid to the Hazardous Waste Control Account in the General Fund. Funds deposited in such account are continuously appropriated for expenditure without regard to fiscal years to the State Department of Health Services to carry out the provisions of this chapter. If civil penalties are awarded and the action is brought by a city attorney or district attorney, the department, upon payment of the penalty, shall pay the city or county an amount which shall be equal to the actual cost incurred by the office of the city attorney or district attorney for prosecuting the case for which the penalty was awarded, or one-half the penalty awarded, whichever is less. If no penalty is awarded or paid, or both, the state shall have no obligation to make any payment to the city or county. If the actual cost incurred by the office of the city attorney or district attorney for prosecuting the case was less than half the penalty awarded, the department shall use funds in an amount equal to the monetary difference between such actual cost and one-half such penalty to partially fund activity of local health officers to enforce the provisions of this chapter pursuant to Section 25180.

CHAPTER 805

An act to add Article 3.7 (commencing with Section 8574.7) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to a state toxic disaster contingency plan, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Article 3.7 (commencing with Section 8574.7) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 3.7. Toxic Disasters

8574.7. The Governor shall establish a state toxic disaster contingency plan pursuant to the provisions of this article.

8574.8. (a) A state toxic disaster contingency plan established pursuant to this article shall provide for an integrated and effective state procedure to respond to the occurrence of toxic disasters within the state. The plan shall provide for specified state agencies to implement the plan, for interagency coordination of the training conducted by state agencies pursuant to the plan, and for on-scene coordination of response actions.

Notwithstanding any provision of the plan, the authority for the management of the scene of an on-highway toxic spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs. During the preparation of the toxic disaster contingency plan, the Office of Emergency Services shall adopt the recommendations of the Department of the California Highway Patrol in developing response and on-scene procedures for toxic disasters which occur upon the highways, based upon previous studies for such procedures, insofar as the procedures are not inconsistent with the overall plan for initial notification of toxic disasters by public agencies and for after-incident evaluation and reporting.

(b) The Office of Emergency Services shall establish a central notification and reporting system to facilitate operation of the state toxic disaster response procedures designated by the toxic disaster contingency plan.

8574.9. For purposes of this article, a "toxic disaster" means an occurrence where toxic substances are dispersed in the environment in such a manner as to cause, or potentially cause, injury or death to a significant number of persons or significant harm to the natural environment, as determined by the implementing state agency, through direct or indirect contact with such toxic substances.

(b) The toxic disaster contingency plan shall provide a listing of the kinds of toxic substances which pose potential hazards to human health and the environment and which could be the subject of a toxic disaster.

For purposes of this article, "toxic substances" means, for highway transportation purposes, substances and materials designated as hazardous by the United States Department of Transportation for purposes of Parts 172, 173, and 177 of Title 49 of the Code of Federal Regulations.

SEC. 2. There is hereby appropriated from the General Fund to the Office of Emergency Services the sum of fifty-five thousand three hundred twenty-two dollars ($55,322) for the purposes of Article 3.7 (commencing with Section 8574.7) of Chapter 7 of Division 1 of Title 2 of the Government Code.

CHAPTER 806

An act to amend Section 25174 of the Health and Safety Code, relating to waste disposal, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 25174 of the Health and Safety Code is amended to read:

25174. Each operator of any site at which hazardous wastes are disposed shall pay a fee to the director for disposal of such wastes. The director shall establish a schedule of the fees to be paid to the director by such operator for disposal of hazardous waste, which shall provide revenues which shall not exceed the amount necessary, but shall be sufficient, to cover all costs incurred in the administration of this chapter. Such fees shall be deposited each month in the Hazardous Waste Control Account in the General Fund. The funds deposited in such account are continuously appropriated for expenditure without regard to fiscal years to the State Department of Health Services to carry out the provisions of this chapter.

SEC. 2. The amendment to Section 25174 of the Health and Safety Code made by this act does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 807

An act to amend Sections 13261, 13265, and 13268 of the Water Code, relating to water quality, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 13261 of the Water Code is amended to read:

13261. (a) Any person failing to furnish a report under Section

13260 when so requested by a regional board is guilty of a misdemeanor.

(b) Any person discharging or proposing to discharge hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly furnishes a false report under Section 13260, or who either willfully fails to furnish a report or willfully withholds material information under Section 13260 despite actual knowledge of such requirement, may be liable civilly in a sum of not to exceed twenty-five thousand dollars ($25,000) and is guilty of a misdemeanor. Such sum shall be assessed and recovered pursuant to subdivision (b) of Section 13350.

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with Section 13370).

SEC. 2. Section 13265 of the Water Code is amended to read:

13265. (a) Any person discharging waste in violation of Section 13264, after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor. Each day of such discharge shall constitute a separate offense.

(b) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, in violation of Section 13264 is guilty of a misdemeanor and may be liable civilly in a sum of not to exceed twenty-five thousand dollars ($25,000) for each day in which such violation occurs. Such sum shall be assessed and recovered pursuant to subdivision (b) of Section 13350, provided that such liability shall not be imposed if the discharger is not negligent and immediately files a report of the discharge with the board, or if the regional board determines that the violation of Section 13264 was insubstantial.

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with Section 13370).

SEC. 3. Section 13268 of the Water Code is amended to read:

13268. (a) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or falsifying any information provided therein, is guilty of a misdemeanor.

(b) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, knowingly failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or knowingly falsifying any information provided therein, is guilty of a misdemeanor and may be civilly liable in a sum not to exceed five thousand dollars ($5,000) for each day the reports are not furnished or are falsified. Such sum shall be assessed and recovered pursuant to subdivision (b) of Section 13350.

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with Section 13370).

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which

may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 808

An act to amend Section 25187 of, and to add Section 25187.5 to, the Health and Safety Code, and to amend Section 13304 of the Water Code, relating to waste, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 25187 of the Health and Safety Code is amended to read:

25187. Whenever the director determines, after public hearing, that any person has violated or is in violation of any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter, the director may issue an order specifying a schedule for compliance or correction. An order issued pursuant to the provisions of this section may include a requirement that such person take corrective action with respect to hazardous waste, including the cleanup of such hazardous waste, abatement of the effects thereof, and any other necessary remedial action. Persons who are subject to an order pursuant to this section, upon proof of violation, include, but are not limited to present or prior owners, lessees, or operators of the property where the hazardous waste is located and producers, transporters, or disposers of the hazardous waste.

SEC. 2. Section 25187.5 is added to the Health and Safety Code, to read:

25187.5. (a) If corrective action is not taken on or before the date specified in an order issued pursuant to Section 25187, or if in the judgment of the department immediate corrective action is necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife, or the environment, the department may take, or contract for the taking of, such corrective action and recover the cost thereof as provided in subdivision (c).

(b) The department may expend up to one hundred thousand dollars ($100,000) in a 12-month period of available moneys in the Hazardous Waste Control Account in the General Fund to take corrective action pursuant to subdivision (a). Notwithstanding any

other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a), and may enter into oral contracts, not to exceed two thousand dollars ($2,000) in obligation, when in the judgment of the department immediate corrective action is necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife, or the environment. Such contracts, whether written or oral, may include provisions for the rental of tools or equipment, either with or without operators furnished, and for the furnishing of labor and materials necessary to accomplish the work. Any such contract by the department shall be exempt from approval by the Department of General Services pursuant to the provisions of Section 14780 of the Government Code.

(c) If corrective action is taken pursuant to subdivision (a), the person or persons who were subject to the order of the department issued pursuant to Section 25187, or any person or persons whose violation resulted in the imminent and substantial danger to health or the environment shall be liable to the department for the reasonable cost actually incurred in taking corrective action. In addition, such person or persons shall be liable to the department for administrative costs in an amount equal to 10 percent of the reasonable cost actually incurred or five hundred dollars ($500), whichever is greater. The amount of cost determined pursuant to this subdivision shall be recoverable in a civil action by the department, in addition to any other fees or penalties. Persons who may be liable pursuant to this subdivision shall include, but not be limited to, present or prior owners, lessees, or operators of the property where the hazardous waste is located and producers, transporters or disposers of the hazardous waste.

(d) Neither the department, nor any person authorized by the department to enter upon any lands for the purpose of taking corrective action pursuant to subdivision (a) is liable to civil or criminal action for trespass for any acts which are necessary to carry out such corrective action.

(e) This section does not impose any new liability associated with acts that occurred before January 1, 1981, if the acts were not in violation of existing law or regulations at the time they occurred.

SEC. 3. Section 13304 of the Water Code is amended to read:

13304. (a) Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up such waste or abate the effects thereof or, in the case of threatened pollution or nuisance, take other necessary remedial action. Upon failure of any person to comply with such cleanup or abatement

order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring such person to comply therewith. In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

(b) The regional board may expend available moneys to perform any cleanup, abatement, or remedial work required under the circumstances set forth in subdivision (a) which in its judgment is required by the magnitude of endeavor or urgency of prompt action needed to prevent substantial pollution, nuisance, or injury to any waters of the state. Such action may be taken in default of, or in addition to, remedial work by the waste discharger or other persons, and regardless of whether injunctive relief is being sought. The regional board may perform the work itself, or by or in cooperation with any other governmental agency, and may use rented tools or equipment, either with operators furnished or unoperated. Notwithstanding any other provisions of law, the regional board may enter into oral contracts for such work, and the contracts, whether written or oral, may include provisions for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. Such contracts shall be exempt from approval by the Department of General Services pursuant to the provisions of Section 14780 of the Government Code.

(c) If such waste is cleaned up, the effects thereof abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), shall be liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up such waste, abating the effects thereof, or taking other remedial action. The amount of such costs shall be recoverable in a civil action by, and paid to, such governmental agency and the state board to the extent of the latter's contribution to the cleanup costs from the State Water Pollution Cleanup and Abatement Account or other available funds.

(d) If, despite reasonable effort by the regional board to identify the person responsible for the discharge of waste or the condition of pollution or nuisance, such person is not identified at the time cleanup, abatement, or remedial work must be performed, the regional board shall not be required to issue an order under this section.

(e) "Threaten," for purposes of this section, means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.

(f) This section does not impose any new liability for acts

occurring before January 1, 1981, if the acts were not in violation of existing laws or regulations at the time they occurred.

CHAPTER 809

An act amending and supplementing the Budget Act of 1980 by adding Section 2.5A thereto, relating to natural resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

I am deleting the following items of appropriation contained in Assembly Bill No 990:

Section 4 (f)—The appropriation for the Baldwin Hills Project, Phase I. This project has already been funded in AB 1061 which I signed on July 9, (Chapter 372, Statutes of 1980).

Section 4 (p)—The appropriation for the El Capitan State Beach Addition This project is funded in the Budget Act which I signed on July 16, (Chapter 510, Statutes of 1980 (Item 585(n))

Section 5 (b)—The local assistance grant to the East Bay Regional Park District for the George Miller Jr. Regional Shoreline land acquisition. I have already approved $2 0 million for this same purpose in Item 532(h) of the Budget Act (Chapter 510, Statutes of 1980)

In addition to the above deletions, I am making a technical reduction of $12 5 million in the amount appropriated pursuant to Section 2 to correspond to the action taken above

With the above deletions, I approve Assembly Bill No 990

EDMUND G. BROWN JR., Governor

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

SECTION 1. The Legislature hereby finds and declares that it is in the interest of present and future generations that the recreational, scenic, natural, and cultural heritage of the state be preserved and enhanced to the maximum possible degree.

SEC. 2. Notwithstanding Section 66100 of the Education Code, if on June 30, 1980, there is an unencumbered balance available for appropriation in the Capital Outlay Fund for Public Higher Education in excess of one hundred fifty million dollars ($150,000,000), the State Treasurer shall, on July 1, 1980, deposit such excess amount, up to forty-seven million nine hundred fifteen thousand dollars ($47,915,000) in the State Parks and Recreation Fund.

SEC. 3. The sum of forty-seven million nine hundred fifteen thousand dollars ($47,915,000) is hereby transferred from the Energy and Resources Fund to the State Parks and Recreation Fund.

SEC. 4. The sum of forty-six million one hundred eighty-five thousand dollars ($46,185,000), or so much thereof as may be necessary, is hereby appropriated from the State Parks and Recreation Fund to the Department of Parks and Recreation for expenditure, without regard to fiscal year, for the state park system in accordance with the following schedule:

Schedule:

(a) Torrey Pines State Reserve, Los Penasquitos Lagoon—acquisition 2,000,000

provided, that the funds appropriated by this category may be expended only for the acquisition of those lands designated by the San Diego County Assessor as parcels 301-010-11, 301-032-02, 301-032-05, 301-032-06, 301-032-08, 301-032-09, and 301-032-11.

(b) Town of Locke Project—acquisition and development 1,200,000

provided, that none of the funds appropriated by this category shall be expended for development, other than structural stabilization, rehabilitation of the water system, or installation of fire prevention and control measures, until a general plan for the Town of Locke Project has been approved by the State Park and Recreation Commission.

(c) Fryman Canyon—acquisition and development 1,000,000

provided that the funds appropriated by this category shall be available first for acquisition of lands described in the preliminary report of the Santa Monica Mountains Comprehensive Planning Commission; and provided further, that an amount not to exceed fifty thousand dollars ($50,000) of the funds appropriated by this category shall be available for development of necessary trails between Fryman Canyon and the Mulholland Scenic Parkway; and, provided further, that the department shall enter into an interagency agreement with the City of Los Angeles for development by the city of necessary trails between Fryman Canyon and the Mulholland Scenic Parkway and for reimbursement of the cost associated therewith, not to exceed fifty thousand dollars ($50,000).

(e) El Pueblo de Los Angeles State Historic Park, Metropolitan Transit Authority Building (Plaza Substation)—development, structural stabilization 1,350,000

(f) Baldwin Hills Project, Phase I—acquisition 7,500,000

provided, that the funds appropriated by this category shall be expended first for acquisition of those lands lying generally south of the abandoned Baldwin Hills Reservoir and adjacent, where possible, to lands presently owned by the County of Los Angeles.

(g) Mount San Jacinto State Wilderness, Deer Springs Trail access—acquisition 325,000

provided, that the funds appropriated by this category may be expended only in accordance with the recommendation of the Department of Parks and Recreation in the "Mount San Jacinto State Wilderness, Deer Springs Trail Feasibility Study," Department of Parks and Recreation, May 1978.

(h) Malakoff Diggins State Historic Park expansion (Holland estate, Meredith estate)—acquisition 500,000

(i) Folsom Lake State Recreation Area, Salmon Falls Bridge day-use area—working drawings and construction 100,000

provided, that the funds appropriated by this category shall be available for improvement of the parking area, improvement of trails providing access to the surface of Folsom Lake, landscaping, and erosion control measures.

(j) Chino Hills Project, Phase I (Telegraph Canyon)—acquisition 5,000,000

(k) Mokelumne River Project, Big Bar day-use area (Electra Run)—acquisition, planning, working drawings, construction 150,000

provided, that the funds appropriated by this category shall be used first for acquisition of those contiguous parcels located in Calaveras County adjacent to the Mokelumne River and immediately upstream of the State Route 49 bridge; and, provided further, that expenditure of such funds for development shall be limited to provision of such minimal facilities as shall be necessary to safely accommodate existing levels of recreational boating between the Electra Powerhouse and State Route 49 and to maintain secure and available access from such lands to adjacent parcels for use by the owners of such parcels; and, provided further, that such funds shall not be expended for development of facilities unless and until the Department of Parks and Recreation enters into an agreement with the Bureau of Land Management for operation and maintenance of the facilities by the Bureau of Land Management.

(*l*) Sonoma Coast State Beach, Furlong Gulch—acquisition 2,000,000

provided, that the funds provided by this category may be expended only for acquisition of lands located in Unit I and Unit II of the Pacific View Estates Subdivision or identified by the So-

noma County Assessor as parcels 101-150-30, 101-150-31, 101-150-32, and 101-150-22; provided further, that the Department of Parks and Recreation shall enter into an interagency agreement with the State Coastal Conservancy for reimbursement of expenses related to the acquisition of such lands from willing sellers by the State Coastal Conservancy and for the deposit of any funds recouped by the State Coastal Conservancy in connection with such acquisition in excess of administrative costs, to the State Parks and Recreation Fund; and, provided further, that such funds shall not be available for acquisition of any parcel which has been developed for human habitation and is occupied by the owner unless agreement is reached for life tenancy of the owner, or the owner agrees willingly to sell such parcel to the state without retaining a right of life tenancy.

(m) Mendocino Coast State Parks (Jug Handle State Reserve and Manchester State Beach) —acquisition 260,000

provided, that the funds appropriated in this category for expenditure at Jug Handle State Reserve may be encumbered only for acquisition of land designated by the Mendocino County Assessor as parcels no. 017-370-07, 017-370-08, and 017-370-09; and provided, further, that such parcels shall be managed so as to eliminate and preclude trespass and other problems for neighboring landowners and residents to the maximum extent possible; and provided, further, that funds appropriated in this category for expenditure at Manchester State Beach may be encumbered only for acquisition of undeveloped parcels in the Hunter's Lagoon Subdivision; and provided, further, that lands acquired by the state in the Hunter's Lagoon Subdivision shall be leased for agricultural uses and managed in a manner which will protect the habitat of Biaggi Lagoon (also known as Hunter's Lagoon, Sea Dune Lake, the Lake, and the Lagoon) and the agricultural potential of the Hunter's Lagoon Subdivision lands and the neighboring agricultural lands.

(n) Santa Monica Mountains Parks (Potrero Valley and Cross Mountain Park)—acquisition 4,700,000

provided, that the funds appropriated by this category for expenditure at Potrero Valley may be encumbered only for acquisition of lands known generally as the "Danielson Ranch" and de-

scribed in the Preliminary Report of the Santa Monica Mountains Comprehensive Planning Commission; provided, that such lands have not been or are judged by the Director of Finance not likely to be acquired by an agency of the United States; provided, that the City of Thousand Oaks encumbers at least $250,000 for such acquisition; and provided further, that funds appropriated by this category for expenditure at Cross Mountain Park shall be encumbered first for acquisition of the Doheny Ranch and second for the Willacre Estate as described in the Preliminary Report of the Santa Monica Mountains Comprehensive Planning Commission; provided, that such funds shall not be expended unless and until the Department of Parks and Recreation enters into an agreement with a local agency or an agency of the United States government for operation and maintenance of Cross Mountain Park at no cost to the state.

(o) Del Valle Lake S.R.A. Expansion (east view shed)—acquisition 1,500,000

provided, however, that funds appropriated by this category shall be available only for acquisition of lands designated by the Alameda County Assessor as parcels 99A-2700-005-0, 99A-2700-006-6, 99A-2700-007-1, 99A-2700-007-3, 99A-2700-007-4, 99A-2700-012-6, 99A-2450-001-3, 99A-2450-002-6, 99A-2460-002-2, 99A-2700-006, and 99A-2720-008, or so much of such lands as are necessary to protect the view shed east of the Del Valle Lake Regional Park or to protect the waters of Del Valle Lake from degradation.

(p) El Capitan State Beach Addition—acquisition 3,500,000

provided, however, that the funds appropriated by this category shall be available for expenditure only for the purposes of Item 410.7B(k) of Chapter 1484 of the Statutes of 1974; and, provided further, that such funds shall not be available for expenditure unless and until the unencumbered balance of funds reappropriated for such purpose by Item 505(a)(18) of Chapter 359 of the Statutes of 1978, is reverted.

(q) Henry Coe State Park expansion (Gill-Mustang Ranch)—acquisition 9,000,000

provided, that the funds appropriated by this category shall be available for acquisition of lands located east of Henry Coe State Park in Santa

Clara and Stanislaus Counties, totaling approximately 48,000 acres, and known generally as the Gill-Mustang Ranch.

(r) South Yuba River Trail Project 100,000

provided, however, that none of such funds shall be expended on the purchase price of any real property until the State Public Works Board has determined that there exists an agreement between the state and the federal government that there will be federal government development and operation of a trail upon the lands to be acquired by the state.

(s) Bear Creek Redwoods Project—planning, acquisition 2,000,000

provided, however, that the funds appropriated by this category shall be available only for acquisition of lands designated by the Santa Clara County Assessor as Parcels No. 544-28-004, 544-30-002, 544-30-003, 544-31-002, 544-31-003, 544-31-004, 544-32-001, 544-33-001, 544-33-002, 544-33-003, 544-33-014, 544-50-001, 544-56-004, 558-41-007, 558-41-011, 558-41-017, 558-41-018, 558-42-001, 544-31-005, 544-31-006, 544-50-003, 544-50-005, 544-50-006; and, provided further, that the Midpeninsula Regional Open Space District and the County of Santa Clara, in combination with other nonstate public and private entities, encumber two million dollars ($2,000,000) for the purposes of this category.

(t) McGrath State Beach, addition—acquisition 3,000,000

(u) Watts Tower, Simon Roddia Park Project—development 1,000,000

provided, that the funds appropriated by this category shall not be encumbered by the Director of Finance sooner than 30 days after notification in writing of the necessity therefor to the Chairman of the Assembly Ways and Means Committee, the Chairman of the Senate Finance Committee, and the Chairman of the Joint Legislative Budget Committee pursuant to Section 28 of the Budget Act.

SEC. 5. The sum of one million six hundred fifty thousand dollars ($1,650,000), or so much thereof as may be necessary, is hereby appropriated from the State Parks and Recreation Fund to the Department of Parks and Recreation for expenditure, without regard to fiscal year, for grants to local agencies in accordance with the following schedule:

Schedule:

(a) East Bay Regional Park District, George Miller Jr. Regional Shoreline, construction of lagoon and related landscaping 150,000

(b) East Bay Regional Park District, George Miller Jr. Regional Shoreline, land acquisition .. 1,500,000

SEC. 6. The sum of six hundred ten thousand dollars ($610,000), or so much thereof as may be necessary, is hereby appropriated from the Off-Highway Vehicle Fund to the Department of Parks and Recreation for expenditure without regard to fiscal year in accordance with the following schedule:

Schedule:

(a) Auburn Reservoir Off-Highway Vehicle Project—working drawings and construction 360,000

provided, however, that such funds shall be expended only to carry out an off-highway vehicle program at locations to be inundated by the future waters of the proposed Auburn Reservoir, for planning, development, maintenance, administration and conservation of trails and areas for use by off-highway vehicles, improvement of the access road from the Old Auburn-Forest Hill Road to the Mammoth Bar and Murderers Gulch area, development of parking and sanitation facilities and for other necessary activities; and provided further that facilities developed for the use of off-highway vehicles be compatible with and complement other presently existing recreational uses including, but not limited to, hunting, fishing, swimming, rafting and picnicking.

(b) California Off-Highway Vehicle Recreation and Trail Study 250,000

provided, that the funds appropriated by this category shall be available for (1) a survey and evaluation of the recreation interests, activities, and needs of off-highway vehicle users, (2) a survey and evaluation of existing areas, trails, and facilities available for use by off-highway vehicles, (3) a determination if additional trails and facilities are needed to meet the immediate and future needs of off-highway vehicle users, (4) an evaluation of the effectiveness of the department's off-highway vehicle program in meeting the recreational needs of off-highway vehicle users.

SEC. 7. The sum of eighty thousand dollars ($80,000), or so much thereof as may be necessary, is hereby appropriated from the State Parks and Recreation Fund to the State Coastal Conservancy for acquisition of real property necessary for the San Dieguito Lagoon resource enhancement program; provided, however, that such funds

shall be available first for acquisition of real property designated by the San Diego County Assessor as parcel 299-071-02.

SEC. 8. Section 2.5A is added to the Budget Act of 1980, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

SEC. 2.5A. The following sums of money, or so much thereof, as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1980–81, 1981–82, and 1982–83 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1980–81 fiscal year. All such appropriations, unless otherwise herein provided, shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1964.

573.5A—For grants to counties, cities, or cities and counties pursuant to subdivision (d) of Section 5096.15 of the Public Resources Code, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964		800,000
Schedule:		
(a) For acquisition of the McCosker parcel as an addition to Wildcat Canyon Regional Park	500,000	
(b) For acquisition of the Taylor Parcel, as an addition to Wildcat Canyon Regional Park	300,000	

provided, that none of the funds appropriated in this item may be encumbered until the East Bay Regional Park District in combination with other public agencies encumbers at least $500,000 for the acquisition of the McCosker parcel and at least $300,000 for the acquisition of the Taylor parcel; provided, further, that county approval is received for the project pursuant to Section 5096.16 of the Public Resources Code; and provided, further, that none of the funds which are appropriated by this item for the projects set forth herein shall be available for expenditure unless and until such projects are submitted to, and reviewed and approved by, the Secretary of the Resources Agency pursuant to Section 5096.20 of the Public Resources Code.

SEC. 8.5. In the event that there is insufficient money in the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 in order to fund the projects specified in Section 8 of this act, the deficiency shall be made up as follows:

(a) If Assembly Bill No. 2973 is chaptered prior to this bill, the amount necessary to make up such deficiency is hereby appropriated

from the Energy and Resources Fund for expenditure pursuant to Section 8 of this act.

(b) If this bill is chaptered prior to Assembly Bill No. 2973, and, notwithstanding Section 66100 of the Education Code, if on June 30, 1980, there is an unencumbered balance available for appropriation in the Capital Outlay Fund for Public Higher Education in excess of one hundred fifty million dollars ($150,000,000), the State Treasurer shall, on July 1, 1980, deposit such excess amount, up to the amount of such deficiency, in the State Parks and Recreation Fund, and the amount necessary to make up such deficiency is hereby appropriated from the State Parks and Recreation Fund for expenditure pursuant to Section 8 of this act.

SEC. 9. The Department of Parks and Recreation shall accept a grant of the Mojave River Forks Park from the County of San Bernardino, to be administered by the Department of Parks and Recreation as an addition to, and part of, the Silverwood Lake State Recreation Area.

SEC. 10. The acquisitions made pursuant to this act shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

SEC. 11. None of the funds appropriated by this act may be expended for the acquisition of any interest in real property for the state park system until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals made in connection with such acquisition. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the agency conducting such investigations and appraisals and shall be available for postaudit on a selective basis by the Attorney General.

SEC. 12. Moneys appropriated pursuant to category (b) of Item 443C of the Budget Act of 1977, as added by Chapter 756 of the Statutes of 1977, shall be available to augment the Santa Susana Mountains, Phase 2 acquisition as specified in category (d) of Item 457 of the Budget Act of 1978 (Chapter 359 of the Statutes of 1978).

SEC. 13. Except as provided in Section 15 of this act, Sections 2, 3, and 8 of this act shall become operative July 1, 1980.

SEC. 14. (a) If Proposition 9 on the ballot for the statewide election on June 3, 1980, is adopted by the people of this state, this act shall be inoperative from June 4, 1980, until the date the Budget Bill of 1980 is chaptered.

(b) If this act becomes inoperative, pursuant to the provisions of subdivision (a) of this section, this act shall be repealed on the date the Budget Act of 1980 is chaptered, unless the Budget Act of 1980, as chaptered, appropriates or reappropriates funds for the purpose of this act.

SEC. 15. It is the intent of the Legislature, if this bill is chaptered

prior to Assembly Bill No. 2973, that Section 2 of this bill shall become operative and Section 3 of this bill shall not become operative.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the provisions of this act to enable the early acquisition and development of urgently needed lands for parks and recreation, it is necessary that this act take effect immediately.

CHAPTER 810

An act to add Article 2 (commencing with Section 19460) to Chapter 5 of Part 2 of Division 10 of the Welfare and Institutions Code, relating to handicapped persons, and making an appropriation therefor.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Article 2 (commencing with Section 19460) is added to Chapter 5 of Part 2 of Division 10 of the Welfare and Institutions Code, to read:

Article 2. Transportation Loans

19460. There is in the State Treasury a permanent revolving fund, in the amount of three hundred thousand dollars ($300,000), to be known as the Rehabilitation Revolving Loan Guarantee Fund, and to be administered by the department. The money deposited in the fund is hereby appropriated, without regard to fiscal years, for the purposes of this article. The fund shall be used to guarantee loans made by eligible lenders to eligible persons under this article for the purchase of vans, automobiles, and other special equipment to facilitate transportation of the physically handicapped.

19461. As used in this article:

(a) "Department" means the State Department of Rehabilitation.

(b) "Eligible persons" means parents of children who are physically handicapped, who are living in the home, and who require a wheelchair for mobility as certified by a physician, and where the household income is not greater than the levels prescribed for low-income or moderate-income families pursuant to the Housing and Community Development Act of 1974 (Sec. 102(a)(8), P.L. 93-383; see also subd. (a)(8), Sec. 5302, 42 U.S.C.).

(c) "Eligible lender" means a financial institution organized, chartered, or holding a license or authorization certificate under a

law of this state or the United States to make loans or extend credit and subject to supervision by an official or agency of this state or the United States.

19462. The department shall serve as a state loan guarantee agency to guarantee loans and to administer a guaranteed loan program established pursuant to this article. The department shall guarantee any loan made pursuant to this article at 100 percent of the total amount of principal and interest of the loan in default. The department shall establish the ratio of reserve funds to loans outstanding.

19463. State guaranteed loans made pursuant to this article shall be made without regard to race, religion, creed, or sex.

19464. The total amount of all outstanding debts, obligations, and liabilities which may be incurred or created under this article is limited to the amount contained in the Rehabilitation Revolving Loan Guarantee Fund, and the state shall not be liable beyond the amount contained in such fund for such debts, obligations, and liabilities.

19465. In the event that the amount of loans applied for under this article exceeds the amount of the loans that may be guaranteed pursuant to this article, the department may establish a system of priorities for the approval of loans.

19466. The State Treasurer shall invest, pursuant to statute, any surplus money in the Rehabilitation Revolving Loan Guarantee Fund. The interest or other accretions as a result of the investment of such money shall accrue to the fund.

19467. The funds in the Rehabilitation Revolving Loan Guarantee Fund shall be paid out by the State Treasurer on warrants drawn by the Controller and requisitioned by the department in carrying out the purposes of this article.

19468. The department shall encourage private eligible lenders to participate in the guaranteed loan program established by this article, and shall develop and distribute in cooperation with private eligible lenders consumer information for prospective borrowers.

19469. No loan in excess of ten thousand dollars ($10,000) shall be made to any eligible person under this article.

19470. The department shall promulgate regulations not inconsistent with the provisions of this article which, among other things, shall establish criteria for determining eligibility for loans in the guarantee program which shall assure that the applicants have the ability to repay the loans.

SEC. 2. The Department of Rehabilitation shall report to the Legislature by June 1, 1981, and by June 1, 1983, on the number of eligible persons participating in the program, the total loan volume, and the status of the loan guarantee program established pursuant to Article 2 (commencing with Section 19460) of Chapter 5 of Part 2 of Division 10 of the Welfare and Institutions Code, including the default rate and recommendations for the improvement of administration of the loan guarantee program.

SEC. 3. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the General Fund to the Rehabilitation Revolving Loan Guarantee Fund.

CHAPTER 811

An act to amend Sections 1100 and 1180 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 1100 of the Insurance Code is amended to read:

1100. In this state, all investments and deposits of the assets of an insurer, all purchases on behalf of an insurer, and all sales made of the property and effects of an insurer shall be made in its own name, or in that of a corporation authorized to act as a trustee under the laws of this state, or in the name of a nominee of such a corporation in accordance with any law of this state permitting such a trustee to make use of nominees, or in the name of a nominee approved by the commissioner.

An insurer, except an insurer authorized to transact mortgage guaranty insurance as defined in Section 119, may invest in, purchase, or hold a mortgage or a mortgage participation, pass-through, conventional pass-through, or trust certificate which represents an undivided beneficial interest in a pool of loans secured by mortgages, deeds of trust, or other instruments constituting a first lien or charge on real property located in the State of California, or any other state, commonwealth, or territory, or the District of Columbia, improved with a residential building or a condominium unit or buildings designed for occupancy by no more than four families.

SEC. 2. Section 1180 of the Insurance Code is amended to read:

1180. Such insurers may invest in bonds issued under the "Home Owners' Loan Act of 1933"; bonds, debentures and notes issued by any federal home loan bank, or consolidated federal home loan bank notes, bonds and debentures issued by the Federal Home Loan Bank Board in accordance with the provisions of the Federal Home Loan Bank Act, and mortgage, mortgage participation, pass-through or trust certificates, or obligations or other securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, pursuant to Section 305 or Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. Secs. 1454, 1455), by the Government National Mortgage Association, pursuant to Section 306

or Section 313 or Title III of the National Housing Act (12 U.S.C. Secs. 1721, 1723(e)), or by the Federal National Mortgage Association pursuant to 12 U.S.C. Sections 1717–1719.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Unusually high interest rates for real estate loans are a substantial hardship to home buyers and tend to create chaos in this state's housing market. A shortage of acceptable housing exists today. Permitting insurers to invest in mortgage participation certificates (which are more liquid than individual mortgages) will substantially increase the funds available for loans and will tend to reduce interest rates for such loans, which, in turn, will make more housing available. Thus, the immediate enactment of this act is necessary to maintain stability in the home loan and housing markets.

CHAPTER 812

An act to amend Section 1105 of the Insurance Code, relating to loans and investments.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 1105 of the Insurance Code is amended to read:

1105. This article shall not prevent:

(a) The purchase by any person of any asset which the commissioner requires to be sold, at a price approved by the commissioner.

(b) The borrowing in accordance with its terms by any person upon a policy of life insurance upon his own life.

(c) The payment of a fee to any attorney for legal services rendered to any such insurer.

(d) The receipt of advances under agency contracts by agents of life insurers.

(e) Any admitted insurer's officers, directors, trustees or other persons who have authority in the management of the funds of such insurer from entering into any transaction with such insurer if:

(1) Such transaction is pursuant to a permit issued by the Insurance Commissioner under authority granted to him by other provisions of this code or is such as requires his approval prior to its consummation under other provisions of this code;

(2) The application for any such permit or the request for any such approval sets forth under oath the complete details concerning

all such transactions with any such officers, directors, trustees or other persons; and

(3) Where the commissioner in his permit or approval specifically finds that the consummation of such transaction will not be unfair, unjust or inequitable to such insurer or to any of its stockholders or policyholders.

(f) Any transaction between an insurer and a person having authority in the management of the insurer's funds (except officers, directors, and trustees), if such insurer is subject to registration and reporting under the Insurance Holding Company System Regulatory Act (Article 4.7 (commencing with Section 1215) of Chapter 2 of this part), or subject to substantially similar registration and reporting requirements under the laws of its domicile.

(g) An admitted insurer making a loan for the purchase of a principal residence by, and acquiring, at a price not to exceed the fair market value thereof, the principal residence from, an officer or person having authority in management of the insurer's funds, nor shall such officer or person be prohibited from accepting such loan or acquisition, in connection with the relocation of the place of employment at the request of the insurer, either during the course of employment or upon initial employment of such officer or person having authority in management of the insurer's funds.

Any loan permitted under this subdivision shall be secured by a first trust deed or first mortgage, shall not exceed 90 percent of the fair market value of the property, shall carry an interest rate no more favorable than that rate given to other employees of such insurer not subject to the limitations of this article and shall be subject to the approval of the insurer's board of directors or delegated committee thereof.

This subdivision shall not apply to directors and trustees of insurers.

CHAPTER 813

An act to amend Section 1194.8 of the Insurance Code, relating to insurers.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 1194.8 of the Insurance Code is amended to read:

1194.8. (a) Excess fund investments may be made by a life insurer in real estate and leases thereof and in making improvements thereon for business or residential purposes as an investment for the production of income. The phrase "business or residential purposes"

shall not include real estate or leases primarily intended for use or valued as agricultural, horticultural, farm, ranch or mineral property. Any such investment may be made only by admitted insurers having admitted assets aggregating in value not less than twenty-five million dollars ($25,000,000). Real estate and leases acquired and improvements made thereon under this section shall not exceed in the aggregate an amount equal to 10 percent of the insurer's admitted assets. Real estate and leases acquired under this section shall be in addition to that which is authorized to be acquired under the provisions of paragraphs (a) to (h), inclusive, of Section 1150. Except upon the prior approval in writing of the commissioner, an investment may not be made under the authority of this section if at the time of the making of such investment it would result in the insurer then owning real estate and leases thereof, other than of the kind and for the purposes described in paragraphs (a), (b) and (f) of Section 1150, in an amount exceeding 10 percent of the insurer's admitted assets. Any investment in a single parcel of real estate or in a single leasehold including improvements thereon made under the authority of this section shall not be made in an amount in excess of 1 percent of the insurer's admitted assets or 10 percent of the aggregate of the insurer's capital paid-up and unassigned surplus, whichever amount is larger. A lease eligible for purchase hereunder shall be for a term which at the date of purchase shall not expire for at least 24 years. Percentage or dollar value of assets and capital paid-up and unassigned surplus as provided herein shall be determined by the insurer's last preceding annual statement of conditions and affairs made as of the December 31st last preceding and which has been filed with the commissioner pursuant to law.

(b) In computing the value of real estate held by a life insurer for the purpose of complying with the asset standards or percentage of asset standards, the insurer shall add the net equity of such real estate owned by the insured to the amount of encumbrances and liens against the property for which the insurer could be held liable for any deficiency in the event of foreclosure or other action to realize the value of such liens. "Net equity" as used in this section means book value less the value of liens and encumbrances.

CHAPTER 814

An act to add Section 1191.1 to the Insurance Code, relating to insurers.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 1191.1 is added to the Insurance Code, to read:

1191.1. Excess fund investments may be made in the purchase and sale of exchange traded call options on common stock pursuant to this section.

An insurer may sell exchange traded call options only through an exchange and only with respect to stock which it owns. Common stock that is obligated under an unexpired written call option shall not be sold unless the insurer first enters into a closing purchase transaction. An insurer shall not sell any other options pursuant to this section.

An insurer may purchase exchange traded call options only through an exchange and only for the purpose of a closing purchase transaction. An insurer shall not purchase any other options pursuant to this section.

CHAPTER 815

An act to amend Section 19619 of the Business and Professions Code, relating to horseracing, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 19619 of the Business and Professions Code is amended to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season and shall be the foals of mares that remain in California from the time that they conceive until their foal is dropped and weaned.

(c) Responsibility for the California Standardbred Sires Stakes Program shall lie with the California Horse Racing Board. Administration of the California Standardbred Sires Stakes Program shall be mutually carried out by the harness horsemen's organization contracting with the associations with respect to the conduct of racing meetings and the organization responsible for the registration of California-bred harness horses. Administrative expenses in any given year shall not exceed 4 percent of that year's income to the

California Standardbred Sires Stakes Program, and all such expenses shall be approved by the board.

(d) The California Horse Racing Board is authorized to do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall prepare, issue and promulgate rules and regulations providing for the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining and entry fees for horses and races.

(3) Registration and certification of California stallions, mares bred to such stallions and foals produced thereby.

(4) Such other matters as considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Standardbred Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining and entry fees provided for herein shall be deposited into a separate trust account in the State Treasury. All funds in the trust account are continuously appropriated to the board for expenditure for carrying out the purposes of the California Standardbred Sires Stakes Program. The board may expend funds from the trust account which are sufficient to meet the requirements of the Standardbred Sires Stakes Program, but in amounts not to exceed the total of funds deposited. All disbursements therefrom for the payment of purses and awards, cost of administration, and any other appropriate expenses shall be made by the Chairman of the California Horse Racing Board or his designee. The California Horse Racing Board shall annually make a full report setting forth an itemization of all deposits to such trust account, an itemization of expenditures from such trust account, and an estimate on an annual basis for the following five-year period of income to such trust account and distribution from such trust account.

(f) Pursuant to the provisions of Section 19491.7 the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	*Purses*
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
1981 and thereafter	75%	25%

(g) An amount equal to 10 percent of the total purses raced for in the California Sires Stakes races excluding amounts derived from nomination, sustaining, and entry fees shall be awarded to the standardbred breeders of the horses that earned purse money in the

California Standardbred Sires Stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total purses raced for in the California Sires Stakes races excluding amounts derived from nomination, sustaining, and entry fees shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California Standardbred Sires Stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding the provisions of subdivision (b) of this section the California Horse Racing Board may establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two year olds and are wholly owned by a California resident on the day of the race.

(j) The balance remaining in the trust account, including nominating, sustaining and entry fees, and after the expenditures described in subdivisions (e), (g), (h), and (i) have been made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the California Horse Racing Board in accordance with the following criteria:

(1) California Standardbred Sires Stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at each licensed harness meeting in California except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled.

(2) Two- and three-year-old races shall be divided into colt and filly divisions.

(3) Base purses for the foals of any given year at any race meeting excluding purses derived from nomination, sustaining and entry fees, shall be equal for all two-year-old and three-year-old races regardless of sex and gait, except that if divisions are raced, the base purse for each division shall be no less than 75 percent of the original base purse, and if elimination heats are raced, the base purse for each elimination heat shall be no less than 30 percent of the original base purse.

(4) In each division of each race in the California Standardbred Sires Stake races, the purse shall be divided in the following manner:

(i) Five or more starters

1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%

(ii) Four starters

1st	55%
2nd	25%
3rd	12%
4th	8%

(iii) Three starters

1st	55%
2nd	30%
3rd	15%

(iv) Two starters

1st	65%
2nd	35%

(v) One starter

1st	100%

CHAPTER 816

An act to add Section 3546.3 to the Government Code, relating to public school employer-employee relations.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Section 3546.3 is added to the Government Code, to read:

3546.3. Notwithstanding subdivision (i) of Section 3540.1, Section 3546, or any other provision of this chapter, any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to join, maintain membership in, or financially support any employee organization as a condition of employment; except that such employee may be required, in lieu of a service fee, to pay sums equal to such service fee either to a nonreligious, nonlabor organization, charitable fund exempt from taxation under Section 501 (c) (3) of Title 26 of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in the organizational security arrangement, or if the arrangement fails to designate such funds, then to any such fund chosen by the employee. Either the employee organization or the public school employer may require that proof of such payments be made on an annual basis to the public school employer as a condition of continued exemption from the requirement of financial support to the recognized employee organization. If such employee who holds conscientious objections pursuant to this section requests the employee organization to use the grievance procedure or arbitration

procedure on the employee's behalf, the employee organization is authorized to charge the employee for the reasonable cost of using such procedure.

CHAPTER 817

An act to add Article 4 (commencing with Section 18041) to Chapter 1 of Part 1 of Division 5 of Title 2 of the Government Code, relating to reduced worktime.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Article 4 (commencing with Section 18041) is added to Chapter 1 of Part 1 of Division 5 of Title 2 of the Government Code, to read:

Article 4. Reduced Worktime Act

18041. "Reduced worktime," as used in this article, means employment of less than 40 hours of work per week, and includes arrangements involving job sharing, four-, five-, or six-hour workdays, jobs which provide eight hours of employment or less for one, two, three, four or five days per week, and such other arrangements which the State Personnel Board finds consistent with maximum employment opportunity to employees desiring other than a standard worktime.

18042. It is the policy of the state that to the extent feasible, reduced worktime be made available to employees who are unable, or who do not desire, to work standard working hours on a full-time basis. Further, it is the intent of the Legislature that nothing in this act shall be used to reduce the number of full-time equivalency positions authorized to any department.

18043. (a) Any employee who is being coerced, or who has been required, by the appointing power, a supervisor, or another employee, to involuntarily reduce his or her worktime contrary to the intent of this article, or who has been unreasonably denied the right to participate in this program, may file a grievance with the State Personnel Board pursuant to the provisions of Section 18714.

(b) Any employee of the California State Universities and Colleges System who is being coerced, or who has been required by the appointing power, a supervisor, or another employee, to involuntarily reduce his or her worktime contrary to the intent of this article, or who has been unreasonably denied the right to participate in this program, may file a grievance pursuant to the procedures established by the Trustees of the California State

University and Colleges.

(c) Nothing in this article shall impair the employment or employment rights or benefits of any employee.

(d) This article shall not apply to employees who are full-time state peace officers unless approved by the peace officers' appointing power.

18044. In counting the number of employees any state agency employs for purposes of any personnel ceiling, an employee employed on a reduced worktime basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours that an employee works each week.

18044.5. (a) Permanent employees who voluntarily reduce their worktime shall, upon request, be given first priority for returning to a full-time work schedule to the extent that such full-time work is available. Such permanent employees shall return to full-time employment at the request of the appointing authority pursuant to regulations adopted by the State Personnel Board which shall define the conditions under which such a request by the appointing authority is appropriate and provide a reasonable grace period for allowing an employee to make the necessary personal arrangements for returning to full-time employment.

(b) If a layoff becomes unavoidable, persons employed on a reduced worktime basis shall not routinely be subject to the layoff ahead of full-time employees. These employees shall be subject to the same seniority and other similar considerations as full-time employees in determining the order of layoffs.

18045. If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Sections 3517.5 and 3572, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

18046. All persons employed in reduced worktime positions pursuant to Section 18042, shall receive, on a pro rata basis, except for benefits provided under the Public Employees' Retirement Law and under the Public Employees' Medical and Hospital Care Act, all benefits customarily available to full-time employees of state agencies in similar classes or positions. With regard to benefits provided under the Public Employees' Retirement Law and under the Public Employees' Medical and Hospital Care Act, persons employed in reduced worktime positions shall receive such benefits as are provided by law for persons employed for less than full time.

18046.5. The State Personnel Board shall adopt appropriate rules and guidelines relating to reduced worktime implementation.

18046.7. The Trustees of the California State University and Colleges shall adopt the appropriate rules and guidelines relating to the implementation of the reduced worktime program for the employees of the California State University and Colleges system.

18047. This article shall be known and may be cited as the " Reduced Worktime Act."

CHAPTER 818

An act to add Section 16114.1 to the Government Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 16114.1 is added to the Government Code, to read:

16114.1. (a) In addition to the amount added pursuant to Section 16114, for the City of Pico Rivera Redevelopment Agency, there shall be added for the 1981–82 fiscal year a sum equal to the amount of estimated increase in the assessed value of business inventories in the new shopping center. For the purpose of this subdivision, the estimated increase in the assessed value of business inventories which might have occurred in 1981–82 from the new shopping center had Chapter 1150 of the Statutes of 1979 not been enacted, shall be determined by using the estimate of the increased assessed value of business inventories in the first project area, over the base year inventory value, that was furnished to bidders in connection with the sale of six million seven hundred thousand dollars ($6,700,000) in tax allocation bonds.

(b) The amount added by subdivision (a) shall be reduced dollar for dollar by the amount that the total assessed value increment in the new shopping center, excluding inventory assessed value, exceeds the estimated assessed value increment, excluding business inventories that was furnished bidders in connection with the sale of six million seven hundred thousand dollars ($6,700,000) in tax allocation bonds as put forth in the official statement concerning the bonds adopted by the Pico Rivera Redevelopment Agency on May 1, 1978.

SEC. 2. This act shall be operative only for years in which the state makes inventory reimbursement payments pursuant to Section 16113.

CHAPTER 819

An act to add Division 15.5 (commencing with Section 32000) to the Financial Code, relating to energy, and making an appropriation therefor.

[Approved by Governor July 28, 1980 Filed with Secretary of State July 28, 1980]

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

SECTION 1. Division 15.5 (commencing with Section 32000) is added to the Financial Code, to read:

DIVISION 15.5. STATE ASSISTANCE FUND FOR ENERGY, CALIFORNIA BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATION

CHAPTER 1. GENERAL PROVISIONS

Article 1. Short Title, Construction and Severability

32000. This division shall be known and may be cited as the "State Assistance Fund for Energy Act of 1980."

32001. In this division, unless the context otherwise requires:

(a) A reference to a statute or to a regulation includes such statute or regulation as amended, whether before or after the effective date of this division, as well as any new statute or regulation substituted for such statute or regulation after the effective date of this division.

(b) A reference to a governmental agency or to a public officer includes any governmental agency or public officer which succeeds after the effective date of this division to substantially the same functions as those performed by such governmental agency or public officer on the effective date of this division.

32002. If any provision of this division or the application thereof to any person or circumstances is held invalid, illegal, or unenforceable, such invalidity, illegality, or enforceability shall not affect other provisions or applications of this division which can be given effect without the invalid, illegal, or unenforceable provision or application, and to this end, the provisions of this division are declared to be severable.

Article 2. Legislative Findings and Purposes

32100. The Legislature finds:

(a) That there is a national crisis stemming from the importation of conventional energy fuels for use by American citizens and businesses.

(b) That the President has called upon Americans to reduce the

consumption of conventional energy fuels by both conservation and conversion to alternative energy systems.

(c) That the Legislature has devised and adopted certain measures to encourage the use of alternative energy systems in California homes and businesses by providing tax credits and a State Energy Commission dedicated to energy management.

(d) That it is necessary to increase job opportunities in this state.

(e) That it is appropriate for the state to assist the development of small businesses in the field of alternative energy development both to provide jobs and to ensure the development of a strong and independent alternative energy industry in this state which is characterized by diffused ownership and competition.

(f) That a significant proportion of conventional energy fuel consumption can be replaced with alternative energy systems installed in business firms in this state.

(g) That a major impediment to the growth of small business in the alternative energy industry is the inability to secure financing from conventional business capital markets due to lack of experience in this new industry and lack of sufficient collateral for loans.

(h) That one impediment to businesses considering converting their present consumption of conventional fueled energy to an alternative energy system is the high initial capital cost of such systems and the lack of appropriate financing from conventional sources.

(i) That a financing, management and technical assistance corporation requires management and staff which is experienced and knowledgeable in private financial and business matters, which skills are not usually gained by or found in employees of the civil service system.

32101. The purposes of this division are:

(a) To provide financing assistance for small businesses in the alternative energy industry.

(b) To provide financing assistance to small businesses for the purpose of purchasing, installing, replacing, or developing an alternative energy system for use by such business to conserve or replace conventional energy use.

(c) To provide new employment opportunities for workers in the alternative energy industry.

(d) To reduce conventional energy consumption by business firms.

(e) To promote competition in the alternative energy industry.

(f) To expand self-employment opportunities for workers in the alternative energy industry.

(g) To apply the innovation and invention of individuals to the energy shortage problems of this state.

(h) To encourage the sale for export of alternative energy systems.

(i) To ensure that business opportunities are available to economically disadvantaged areas and groups in the alternative

energy industry.

(j) To foster increased production capacity in the alternative energy industry, and, therefore, increased preparedness in the event of emergency shortages of conventional fuel supplies.

(k) To provide technical and management assistance to small businesses which seek financing assistance for alternative energy systems.

(*l*) To provide public information and education of energy alternatives for business and residential energy users.

Article 3. Definitions

32200. Subject to additional definitions contained in Division 15 (commencing with Section 31000) and this division which are applicable to specific provisions of these divisions and unless the context otherwise requires, the definitions in this article apply throughout this division.

32201. "Alternative energy system" means any device or combination of devices which conserves or produces heat, process heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, which does not expend or use conventional energy fuels, except when such conventional energy fuels are used as a back up energy system for such alternative energy system or in conjunction with an alternative energy system.

32202. "Conventional energy fuel" means any fuel derived from petroleum deposits, including but not limited to oil, heating oil, gasoline, fuel oil, or natural gas, including liquified natural gas, or nuclear fissionable materials. "Conventional energy fuel" includes energy produced by the use of such fuels.

32203. "Small business" means a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations.

32204. "State Controller" means the State Controller or any person to whom the State Controller delegates the authority to act for him or her in the particular matter.

32205. "Rules Committee" means the rules committee of the State Senate or any person to whom the rules committee of the State Senate delegates to act for it in the particular matter.

32206. "Speaker" means the Speaker of the State Assembly or any person to whom the Speaker of the Assembly delegates the authority to act for him in the particular matter.

32207. "Corporation" means the State Assistance Fund for Energy, California Business and Industrial Development Corporation.

32208. "Energy Commission" means the California Energy Resources Conservation and Development Commission.

32209. " Alternative energy business firm" means any small business engaged primarily in the business of the design,

manufacture, production, assembly, distribution, marketing, sale, transportation, or installation of an alternative energy system, or, any small business engaged primarily in the business of producing, transmitting, or selling energy produced by an eligible alternative energy system.

32210. "Board" means the board of directors of the corporation.

32211. "President" means the president of the corporation.

32212. "Finance officer" means the director of the finance division of the corporation.

32213. "Management services officer" means the director of the management services division of the corporation.

32214. "Technical services officer" means the director of the technical services division of the corporation.

32215. "Governor" means the Governor of the State of California or any person to whom the Governor of the State of California delegates the authority to act for him in the particular matter.

32216. "Savings-investment ratio" means an analysis of the proposed system in which energy cost savings are added to other net benefits and costs from operation, maintenance, replacements, depreciation, tax credits and financing costs, and divided by initial investment costs. All benefits and costs are to be evaluated in present or constant dollars.

32217. "Life cycle cost analysis" means an analysis of a proposed system in which all costs and benefits are evaluated over the expected life of the system.

32218. "Minimum economic feasibility" means that the net savings or benefits of an investment exceed the net costs.

32219. "Special projects" means any financing assistance or other program undertaken by the corporation pursuant to Article 3 (commencing with Section 32720) of Chapter 6.

CHAPTER 2. CORPORATE MATTERS

Article 1. Creation of the Corporation

32300. The Legislature hereby authorizes the creation of a nonprofit corporation pursuant to the provisions of the Nonprofit Corporation Law (Part 1 (commencing with Section 9000), Division 2, Title 1 of the Corporations Code) on January 1, 1981.

32301. Except as otherwise provided in this division:

(a) The provisions of the Nonprofit Corporation Law shall apply to the corporation; provided, however, that, whenever any provision of the Nonprofit Corporation Law conflicts with any provision of this division, such provision of the Nonprofit Corporation Law shall not apply and such provision of this division shall apply.

(b) The provisions of the Business and Industrial Development Corporation Law (Division 15 (commencing with Section 31000)) shall apply to this corporation; provided, however, that, whenever any provision of the Business and Industrial Development

Corporation Law conflicts with any provision of this division, such provision of the Business and Industrial Development Corporation Law shall not apply and such provision of this division shall apply.

Article 2. Corporate Name

32310. The name of this corporation shall be: State Assistance Fund for Energy, California Business and Industrial Development Corporation.

Article 3. Board of Directors

32320. The board of directors of the corporation shall consist of nine members, four official and five public directors.

32321. (a) The official members of the board shall be:

(1) The Secretary of the Business and Transportation Agency;

(2) The State Controller;

(3) The President of the Corporation; and,

(4) One member of the Energy Commission, selected and appointed by the members of the Energy Commission.

(b) The public members of the board shall be:

(1) One member selected and appointed by the Rules Committee;

(2) One member selected and appointed by the Speaker; and,

(3) Three members selected and appointed by the Governor as follows:

(i) One member with a minimum of three years experience as an officer or member of a labor union;

(ii) One member with a minimum three years experience as an owner, partner, officer, or employee of an alternative energy business firm, or three years experience as an employee of a private or governmental agency concerned with alternative energy development; and

(iii) One member with a minimum three years experience as an officer or employee of a financial institution.

32322. (a) The terms of official members of the board shall coincide with their official terms of office, except in the case of the member selected and appointed by the members of the Energy Commission, who shall serve on the board until he or she is no longer a member of the Energy Commission or until he or she is replaced by a vote of the Energy Commission.

(b) The public members of the board shall be appointed by the Rules Committee, Speaker, and Governor in such a manner that they shall hold office for overlapping terms. At the time of the appointment of first directors, the first term of the directors appointed by the Rules Committee and Speaker shall be approximately two years. At the time of the appointment of first directors, the first term of the directors appointed by the Governor shall be approximately one year for one director and approximately

three years for two directors. Thereafter, the terms of all public directors shall be three years. Directors shall be eligible for reappointment for an unlimited number of terms.

(c) A public director's tenure shall continue until his successor has been appointed and has taken his position on the board.

(d) In the case of public members, vacancies shall be filled by appointment of the respective appointing authority for the unexpired remainder of the term.

32323. (a) The directors selected and appointed by the Governor, Energy Commission, Rules Committee, and Speaker shall be selected and appointed no later than February 15, 1981.

(b) The directors selected and appointed by the Governor, Rules Committee, and Speaker shall meet the requirements of subdivision (d) of Section 31152.

32324. (a) The official directors shall serve without compensation, except that they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, or at the discretion of the board, may receive a reasonable per diem payment and mileage charge as reimbursement for living and traveling expenses incurred in the performance of duties away from their principal areas of residence. The amount of such per diem payment shall not exceed fifty dollars ($50) for any calendar day. No director shall receive per diem both in the course of his official duties and from the corporation for the same calendar day.

(b) The public directors may, at the discretion of the board, be paid a stipend in addition to reimbursement for their actual and necessary expenses incurred in the performance of their duties or reasonable per diem payment and mileage charge. The amount of any per diem payment shall not exceed fifty dollars ($50) for any calendar day. The board shall determine the amount of the stipend received by public directors, provided, however, that such stipend shall not exceed one hundred dollars ($100) for any calendar day. Additionally, public directors may not receive stipends for more than 25 days in any calendar year.

32325. In addition to the official and public directors provided for in Section 32320, the board may select not more than three private directors to assist the board in managing the corporation, subject to the following:

(a) Private directors shall serve on the board in an advisory and voluntary capacity;

(b) Each private director shall have experience as an officer or employee of a financial institution which engages in the business of providing financing to business firms in this state;

(c) Private directors shall serve without compensation, other than reimbursement for their actual and necessary living and travel expenses incurred in the performance of board duties away from their principal areas of residence; and

(d) Private directors shall be nonvoting members of the board.

32326. (a) Beginning on the effective date of this division, the

Secretary of the Business and Transportation Agency shall act as the interim chairman of the board and shall continue in that office until the first regular board meeting following licensure of the corporation as a California Business and Industrial Development Corporation, at which time the board shall elect its regular chairman.

(b) The Governor, Energy Commission, Rules Committee, and Speaker, shall report their appointments to the board to the interim chairman no later than February 15, 1981.

(c) The interim chairman shall, as soon after the effective date of this division as is practical, convene a meeting of the board.

Article 4. Management of the Corporation

32330. The management of the corporation shall be conducted by the board of directors, subject to the following limitations:

(a) All action taken by the board of directors shall require the approval of a majority of the board present at a meeting at which there is a quorum or by unanimous written consent of all directors;

(b) The board of directors shall file articles of incorporation with the Secretary of State no later than April 30, 1981; and

(c) The board of directors shall apply for a license as a California Business and Industrial Development Corporation by June 1, 1981.

32331. The operations of the corporation shall be directed by the president of the corporation, who shall be selected and appointed by the board.

Article 5. Offices

32340. The board of directors shall, pursuant to the provisions of Chapter 5 (commencing with Section 31300) of Division 15, establish two offices in this state for the transaction of corporate business.

32341. The location of the offices in Section 32340 shall be in:

(a) The City of Los Angeles; and

(b) The City of Sacramento.

32342. The head office of the corporation shall be the office located in the City of Sacramento.

32343. In addition to the offices mentioned in Section 32342, the board of directors may, subject to the provisions of Chapter 5 (commencing with Section 31300) of Division 15, establish offices anywhere in this state to effect the provisions of this division.

32344. Nothing in this article shall be construed to prevent the corporation from closing any office provided for in Section 32341, if the board finds and declares that closing such office is necessary to the safe and sound operation of the corporation.

Article 6. Powers, Exclusions and Prohibitions

32350. (a) The corporation may appoint such agents and employees as it requires, and determine their qualifications, duties,

terms of employment, and compensation. The corporation shall adopt personnel rules and regulations applicable to its employees.

(b) The corporation may contract for such legal counsel as in its judgment is necessary or advisable to enable it to carry out its purposes.

32351. The corporation shall not provide financing assistance to any business firm in this state unless such business firm shall have first applied to not less than one bank in this state for a loan in substantially the same amount as such financing assistance and such application shall have been denied.

32352. The corporation shall be empowered to do and perform all acts contemplated for a business and industrial development corporation.

32353. The corporation shall not issue securities in the corporation to any person other than the State of California.

Article 7. Corporate Divisions

32360. The corporation shall organize itself into three divisions, as follows:

(a) Management services division;

(b) Technical services division; and

(c) Finance division.

32361. Each division shall be directed by a corporate officer who shall be appointed by the president.

32362. In addition to the duties which may be imposed by the president or the board, the duties of each corporate officer shall include directing the operations of their divisions and membership on the loan committee.

32363. The duties of the management services division shall be to provide applicant services in the offices of the corporation, to make credit reviews of applications for financing assistance received by the corporation, and to provide management services to recipients of financing assistance from the corporation, as provided in this division.

32364. The duties of the technical services division shall include making a technical review of applications for financing assistance received by the corporation and providing technical information to small businesses and others interested in alternative energy systems, as provided for elsewhere in this division.

32365. The duties of the finance division shall include keeping the financial books and records of the corporation, filing all reports required of the corporation, processing loans and loan collections, and managing the loan portfolio of the corporation, as provided for elsewhere in this division.

32366. In addition to the functions described in Sections 32363, 32364, and 32365, and the duties and responsibilities of the divisions described elsewhere in this division, the president may assign such other duties, functions, offices, and responsibilities among the

divisions as he or she deems necessary or desirable to effect the provisions of this division.

CHAPTER 3. CORPORATE FINANCES

Article 1. Corporate Accounts

32400. The financial accounts and records of the corporation shall be kept by the finance officer according to policies and rules which the board shall adopt.

32401. The corporation shall adopt as its fiscal year the period from July 1st to and including the following June 30th.

32402. In addition to other accounts the board may establish, the financial accounts of the corporation shall include:

(a) A general operating account;

(b) A general reserve account;

(c) An energy loan fund;

(d) A government guaranteed securities trust fund.

32403. Except as otherwise provided for in this division, all funds received by the corporation shall be deposited in the general operating account of the corporation.

32404. Beginning with the fiscal year which begins July 1, 1982, and each fiscal year thereafter, the board shall not adopt any budget for the corporation in which the projected total operating expenditures exceed the expected balance of the general operating account.

Article 2. Startup Finances

32410. As soon as possible after the effective date of this division and not later than March 30, 1981, the interim chairman of the board shall present to the board an interim budget for the corporation for the remainder of the fiscal year ending June 30, 1981. The interim budget shall include the interim expenses of the corporation in staffing, legal assistance, locating and furnishing offices, all expenses related to securing licensure and incorporation, and such other startup costs as the board may deem necessary or desirable to effect the purposes of this division. Upon approval by the board of the interim budget, the amount of interim expenses shall be allocated from the appropriation contained in Section 2 of the statute which enacted this division and deposited in the general operating account of the corporation.

32411. No later than June 15, 1981, the board shall prepare and adopt a budget for the first fiscal year of the corporation, which shall begin on July 1, 1981. The amount of total expenses of the corporation for the first fiscal year shall be deducted from the appropriation contained in Section 2 of the statute which enacted this division and deposited in the general operating account of the corporation.

32412. The remainder of the appropriation contained in Section

2 of the statute which enacted this division, after deducting the expenses in Sections 32410 and 32411, shall be deposited in the general reserve account of the corporation.

Article 3. Government Guaranteed Securities Trust Fund

32420. In this article "trust fund" means the government guaranteed securities trust fund of the corporation.

32421. The finance officer shall place into the trust fund all securities held by the corporation which carry a guarantee of repayment issued by the Small Business Administration or guarantee of repayment issued by any other governmental authority.

32422. According to policies and regulations which the board shall adopt, the finance officer shall use his or her best efforts to sell the guaranteed portion of the securities held in the trust fund to private investors or the state.

32423. The proceeds of the sale of government guaranteed securities shall be allocated to the accounts of the corporation in the following manner:

(a) That portion of the proceeds of the sale of government guaranteed securities which represents the purchase of the principal amount of the securities shall be credited to the energy loan fund of the corporation; and

(b) That portion of the proceeds of the sale of government guaranteed securities which represents the purchase of the future interest earnings of the securities shall be credited to the general operating account of the corporation.

Article 4. Loan-Loss Reserve Fund

32430. In this article "reserve fund" means the loan-loss reserve fund.

32431. At the beginning of each fiscal year the board shall allocate from the general operating account an amount equal to the expected obligations of the corporation arising from the failure by any small business to repay any loan made by the corporation. This amount shall be credited to a special reserve fund within the general reserve account of the corporation for the purposes of this article.

32432. The amount allocated in Section 32431, less any balance in the reserve fund remaining from the previous fiscal year, shall be placed in the reserve fund of the corporation.

32433. The board shall use its best efforts to ensure that the amount contained in the reserve fund is sufficient to cover all expected obligations of the corporation arising from a default on any loan made by the corporation to any small business, however, in no case shall the amount allocated to the reserve fund be less than 2 percent of the total value of nonguaranteed securities which are held by the corporation.

32434. The board shall adopt rules and policies for reviewing the

adequacy of the reserve fund to meet potential obligations of the corporation due to loan defaults.

32435. The board shall review the adequacy of the reserve fund at least once each calendar quarter for the first two fiscal years of operation of the corporation, and thereafter not less than twice each year.

32436. The board may direct the finance officer to disburse moneys from the reserve fund to meet any obligation of the corporation which arises from a default on any loan made by the corporation to a small business.

Article 5. Energy Loan Fund

32440. All loans made by the corporation to small businesses pursuant to Chapter 5 of this division shall be funded from the energy loan fund.

32441. The finance officer shall disburse from the energy loan fund the proceeds of any loan made by the corporation to a small business.

32442. The finance officer shall deposit in the energy loan fund:

(a) The proceeds of all loans made to the corporation by the State of California pursuant to Chapter 7 (commencing with Section 32800) of this division;

(b) The proceeds from the sale of government guaranteed securities held by the corporation, pursuant to subdivision (a) of Section 32423;

(c) All moneys received by the corporation in repayment of the principal of any loan made by the corporation to any small business, pursuant to Section 32671;

(d) The proceeds of any other loan made to the corporation for the purpose of funding the loan program of the corporation; and

(e) Any funds the board may authorize to be transferred from any other corporate account to the energy loan fund.

32443. In no event shall any moneys in the energy loan fund be used by the corporation for any purpose other than to fund loans made by the corporation to small business pursuant to the purposes of this division.

CHAPTER 4. APPLICATIONS

Article 1. Procedure

32500. Any person in this state may apply for financing assistance pursuant to this division by filing with the corporation an application therefore which includes the following:

(a) Such financial, legal, or other information as may be required by the corporation, on or in such form as the corporation shall develop or require; and

(b) Evidence in writing that the financing assistance applied for,

in substantially the same amount, has been submitted to at least one bank in this state and been denied, pursuant to Section 32352.

32501. Applications for financing assistance which are not in accordance with the purposes of this chapter shall not be accepted or further processed by the corporation.

32502. Failure to provide the corporation with any and all information requested pertaining to any application for financing assistance shall constitute grounds for denial of such application.

32503. Acceptance of any application shall in no way obligate the corporation to provide financing assistance to any applicant.

32504. Each application for financing assistance reviewed by the corporation shall be evaluated under similar technical and financial criteria as all other applications are reviewed.

32505. Recipients of financing assistance from the corporation shall keep such records and other pertinent documents as the corporation shall require, including, but not limited to, records which fully disclose the dispositions of the proceeds of such assistance and the cost of any alternative energy project financed by the corporation. For the purposes of any audit, the President, the Auditor General, or the Director of Finance, or any duly authorized representative thereof, shall have access to such records.

32506. The application and review procedure contained in this chapter and Chapter 5 (commencing with Section 32600) shall be followed with respect to all applications for financing assistance received by the corporation, except for applications for financing assistance under any special project of the corporation. The corporation shall consider and may adopt an appropriate application and review procedure for any special project.

Article 2. Applicant Services

32510. The corporation shall provide not less than one applicant service assistant in each office of the corporation, who shall be qualified to assist applicants in filing the forms and information required by the corporation and to advise applicants of the financial and technical standards observed by the corporation in reviewing applications for financing assistance.

32511. The applicant service assistant shall be available to advise the general public on matters referring to the loan program of the corporation.

32512. Any person may request assistance from an applicant service assistant in filling out the forms and application for financing assistance, provided, however, that the corporation is not required to provide such assistance except to any applicant who, in the immediately preceding fiscal year, had:

(a) Gross income of less than five hundred thousand dollars ($500,000);

(b) Net income after taxes of less than fifty thousand dollars ($50,000); and

(c) Net worth of less than one hundred thousand dollars ($100,000).

CHAPTER 5. LOAN OPERATIONS

Article 1. General Provisions

32600. The corporation shall not provide financing assistance on any application, except for any application submitted for review as a special project, which has not been reviewed in the manner described in this chapter and in the following order:

(a) Prequalification;

(b) Technical compliance;

(c) Credit review; and

(d) Loan policy.

32601. The corporation shall establish within the management services division a credit office.

32602. The corporation shall establish within the technical services division a technology review office.

32603. The corporation shall provide not less than one office loan assistant in each office of the corporation.

32604. The corporation may, after examining projected duties and workload of staff in any corporate office, designate the office loan assistant referred to in Section 32603 as the applicant service assistant referred to in Section 32510 for any office.

Article 2. Prequalification

32610. All applications for financing assistance shall be submitted to an office loan assistant.

32611. The office loan assistant shall review each application submitted to the corporation to prequalify the application. If the office loan assistant finds, with respect to an application for financing assistance:

(a) That the applicant is a small business;

(b) That the application is in the required form and contains all of the information initially required of applicants; and

(c) That the financing assistance requested is consistent with the general purposes of this division and is in such amount and for such terms as can legitimately be financed by the corporation;

the office loan assistant shall prequalify the application. If the office loan assistant finds otherwise, he or she shall return the application to the applicant.

32612. Any application returned to an applicant pursuant to Section 32611 may be corrected by the applicant and resubmitted without prejudice.

32613. The office loan assistant shall make the determination called for in Section 32611 within three working days after the application is received at the corporation's office.

32614. If the office loan assistant finds with respect to any application for financing assistance either subdivision (b) or (c) of Section 32611 to not be the case, and, the applicant's financial condition is described in Section 32512 (a), (b), and (c), the office loan assistant shall refer the application to an applicant service assistant who shall assist the applicant in submitting a corrected application for financing assistance.

32615. If the office loan assistant finds with respect to any application for financing assistance, subdivisions (a), (b), and (c), of Section 32611 to be the case, and the applicant is prequalified for financing assistance, the office loan assistant shall refer the application to the technology review office of the corporation.

Article 3. Technical Compliance

32620. The technology review office shall review all applications referred to it by an office loan assistant. No application for financing assistance shall be considered by the technology review office which has not been prequalified and referred by an office loan assistant.

32621. If the technology review office finds, with respect to any application for financing assistance from an alternative energy business firm:

(a) That the alternative energy system or service to be supplied to buyers by the applicant small business meets or exceeds existing standards of quality and performance prevailing in the industry or established by governmental rule, law, or regulation, regarding the manufacture, design, testing, safety, assembly, materials, method of installation, energy efficiency, or such additional standards of quality and performance which the corporation may establish and adopt; and

(b) That the applicant small business owner, owners, directors, officers, or employees are qualified and experienced in the business to be financed and that there is a reasonable expectation that the alternative energy system to be supplied by the applicant will be properly designed, manufactured, assembled, and installed;

the technology review office shall approve the application for technical compliance. If the technology review office finds otherwise, the application shall be denied.

32622. In making the determination of quality and performance of alternative energy systems as required by subdivision (a) of Section 32621, the technology review office may consider existing test or demonstration results on the quality and performance of the subject system, examine completed and installed devices of identical or similar design and manufacture, consider the results of the testing and certification program of the Energy Commission, and such additional tests and standards for the measurement of quality or performance of alternative energy systems as the corporation may require.

32623. If the technology review office finds, with respect to any

application for financing assistance from a small business seeking to purchase an alternative energy system for its own use:

(a) That the application is to finance an alternative energy system within the meaning of this division;

(b) That the alternative energy system to be purchased meets the requirements of system quality and performance, as specified in subdivision (a) of Section 32621;

(c) That the installation and use of the alternative energy system to be financed will result in a net reduction of conventional fuel consumption by the applicant small business, either from present levels of fuel consumption by such business or from projected levels of fuel consumption by such business if the alternative energy system were not installed, or, that the energy to be supplied by the alternative energy system would not be available to the applicant from conventional energy fueled sources; and

(d) That the alternative energy system to be financed will be designed, manufactured, assembled, tested, installed, serviced, and maintained by persons qualified in such matters;

the technology review office shall approve the application for technical compliance. If the technology review office finds otherwise, the application shall be denied.

32624. The technology review office shall use its best efforts to make the determinations called for in Sections 32621 and 32622; provided, however, that neither the corporation nor any person acting on behalf of the corporation shall be held liable in any civil action arising from its review of the technical compliance of any application for financing assistance.

32625. All applications which are approved by the technology review office for technical compliance, pursuant to Section 32621 or 32622, shall be submitted to the credit office of the corporation.

Article 4. Credit Review

32630. The credit office shall consider all applications referred to it by the technology review office. No application for financing assistance shall be considered by the credit office which has not been considered and approved by the technology review office.

32631. If the credit office finds, with respect to any application for financing assistance:

(a) That the applicant is a small business within the meaning of this division;

(b) That the owners, shareholders, officers, and directors of the applicant small business are qualified to manage the business and are of good character;

(c) That, in the opinion of the credit office upon examination of the financial records of the applicant, there is a reasonable expectation that the financing assistance will be repaid by the applicant;

(d) That making the payments on the proposed financing assistance would not represent an unreasonable burden upon the resources of the applicant;

(e) That the applicant has pledged as collateral security against the proposed financing assistance all unattached assets which are owned or controlled by the applicant, and which are available for pledging by the applicant not to exceed the full principal value of the proposed financing assistance;

(f) That providing the proposed financing assistance would not constitute an unsafe or unsound act by the corporation; and

(g) That the applicant meets such additional financial criteria which have bearing upon the ability to repay the proposed financing assistance as the corporation may adopt;

the credit office shall approve the application. If the credit office finds otherwise, the application shall be denied.

Article 5. Loan Committee

32640. The loan committee shall consider all applications referred to it by the credit office. No application for financing assistance shall be considered by the loan committee which has not been considered and approved by the credit office.

32641. The members of the loan committee shall be:

(a) The management services officer;

(b) The technical services officer; and

(c) The finance officer.

32642. The finance officer shall be the chairman of the loan committee.

32643. Each member of the loan committee shall have one vote. The vote of two members of the loan committee shall be required for final approval of any application for financing assistance, one of which shall be the vote of the chairman of the loan committee.

32644. The loan committee shall meet not less than once each calendar month to consider loan applications referred by the credit office. The chairman of the loan committee shall prepare a report on the condition of the energy loan fund prior to each meeting of the loan committee, including a statement of lendable funds and projected loan demand.

32645. The loan committee shall consider and adopt the amount of financing assistance which is available to applicants at each meeting.

32646. The loan committee shall rank all applications before it at each meeting in order of priority. This ranking shall first consider minimum economic feasibility, then innovative and commercial potential as an alternative energy system.

32647. Priority in ranking loan applications shall be given to businesses purchasing or providing alternative energy systems by considering the following characteristics in descending order of importance:

(a) Produces or conserves energy at the highest savings-investment ratio;

(b) Produces or conserves energy in an innovative application of alternative energy technology;

(c) Produces energy in a form directly usable for its highest and best use; that is, changing energy resources for producer or consumer use by the fewest number of conversions; and

(d) All other alternative energy systems.

32648. In making the determination of savings-investment ratio as called for in subdivision (a) of Section 32647, the corporation shall use a life cycle cost analysis which evaluates all costs and cost savings over the estimated life of the system, as compared to the equivalent conventional energy system. The minimum economic feasibility of any project financed by the corporation shall be a savings-investment ratio of 1 or greater.

32649. The loan committee shall give final approval to all applications in the order of priority specified in Sections 32646 and 32647. Only those applications which can be financed with the amount adopted pursuant to Section 32645 shall be approved. Applications which cannot be financed from the amount determined in Section 32645 at any meeting shall be held for consideration at the next meeting of the loan committee. Any application submitted to the loan committee which is considered but not approved at three consecutive meetings of the loan committee shall be denied.

32649.1. In approving any application, the loan committee may impose such restrictions and conditions on the applicant's use of the funds as the loan committee deems are necessary or desirable to ensure compliance with provisions and purposes of this division.

Article 6. Final Processing

32650. All applications for financing assistance approved by the loan committee pursuant to Article 5 (commencing with Section 32640) shall be referred to the finance officer for final processing and disbursement.

32651. Final processing of a loan application shall include placement of the application with the appropriate loan program of the corporation.

32652. The finance officer shall not execute any loan which is not:

(a) Approved for guarantee by the Small Business Administration, where the minimum amount of such guarantee is not less than 90 percent of the principal amount of such loan;

(b) Approved for guarantee by any other governmental loan guarantee authority, the minimum amount of such guarantee is not less than 50 percent of the principal amount of such loan;

(c) Made pursuant to the corporation's participation with the Small Business Administration as a small business investment company or local development company; or

(d) Less than 16 percent of the total financing package arranged

between the corporation and another lender or lenders on behalf of the applicant.

32653. The corporation shall use its best efforts to ensure that not less than 50 percent of the total financing assistance provided by the corporation, exclusive of special projects, shall be guaranteed by the Small Business Administration pursuant to Sections 7(a), (b), and (i) of the Small Business Act.

Article 7. Disbursement

32660. Prior to disbursement of the proceeds of any approved application for financing assistance, the management services officer shall assign the applicant to a management consultant within the office of management services.

32661. The office of management services shall contact the applicant and recommend to the finance officer the method of disbursement and handling of the proceeds of the loan.

32662. The finance officer shall disburse the loan proceeds to the applicant upon the recommendation of the office of management services pursuant to Section 32661.

32663. The corporation shall deduct any payment for management assistance charged against the applicant prior to disbursement of the loan proceeds.

32664. The finance officer shall place all securities executed by the corporation pursuant to subdivisions (a) and (b) of Section 32652 in the government guaranteed securities trust fund.

Article 8. Collections

32670. The finance division shall manage the collection of repayments for financing assistance provided by the corporation.

32671. The proceeds from the repayment of loans made by the corporation shall be allocated to the accounts of the corporation in the following manner:

(a) That portion of any repayment which represents the repayment of the principal amount of any loan shall be credited to the energy loan fund of the corporation; and

(b) That portion of any repayment which represents interest income on any loan shall be credited to the general operating account of the corporation.

32672. The board shall adopt such rules and policies regarding the assessment of penalties or fees for overdue loan payments as in its opinion are necessary or desirable to accomplish the purposes of this division.

32673. The board shall adopt such rules and measures as it deems necessary and proper in the collection of loan payments from any small business which is in default on any loan made by the corporation, provided, however, that in no event shall the corporation abandon a default claim against any solvent business

firm.

CHAPTER 6. MISCELLANEOUS

Article 1. Office of Management Services

32700. The corporation shall appoint not less than one management consultant to the office of management services for the purposes of this division.

32701. The duties of the office of management services shall include:

(a) To contact each applicant prior to the disbursement of financing assistance, pursuant to Section 32661, to determine an appropriate schedule of disbursement of proceeds to the applicant;

(b) To monitor the financial condition of any small business which is provided financing assistance by the corporation; and

(c) To assist each small business which is provided financing assistance by the corporation in the management of its financial and business affairs.

32702. The board shall establish a schedule of charges for management assistance provided to the small business financed by the corporation.

32703. The charges for management assistance in Section 32702 shall be calculated to cover all costs of the corporation in providing such services, without profit, to the small business.

Article 2. Alternative Energy Research

32710. The purpose of alternative energy research is to provide the office of technology review with information for making the determination called for in Article 3 (commencing with Section 32620) of Chapter 5.

32711. The division of technical services shall work closely with the alternatives division of the Energy Commission and the federal Department of Energy in gathering information relative to the performance and quality of alternative energy systems.

Article 3. Special Projects

32720. The corporation is authorized to accept any public or private financial grant in furtherance of the purposes of this division, including, but not limited to, grants for alternative energy research or demonstration projects, manpower training, or economic development.

32721. The board may consider and adopt rules for the acceptance and disbursement of grants, provided, however, that:

(a) The cost of administering any grant, less any payment for grant administration made to the corporation by the granting authority, shall in no case exceed 5 percent of the operating budget

of the corporation in any calendar year; and

(b) The primary purpose of any grant administered by the corporation is to assist the development of the alternative energy industry in this state.

32722. The corporation may participate with any federal or state governmental agency, department, board, bureau, or office in any program which is intended to assist the development of the alternative energy industry or to encourage the use of alternative energy systems by small businesses in this state.

32723. The corporation may develop and implement a program to assist private financial institutions, to evaluate investment opportunities in alternative energy systems, and to help potential small business borrowers make contact with appropriate private sources of funds for alternative energy investments.

CHAPTER 7. BORROWING FROM THE STATE

Article 1. Definitions

32800. In this chapter:

(a) "Fund" means the State Energy Loan Fund;

(b) "Controller" means the State Controller or any person who the State Controller delegates the authority to act for him in the particular matter.

Article 2. State Energy Loan Fund

32810. The Controller shall establish, maintain, and administer a separate account within the General Fund of the State of California to effect the provisions of this chapter.

32811. The name of this account shall be the "State Energy Loan Fund," which fund shall be continuously appropriated for the purposes of this division.

32812. The Controller shall transfer into the fund from the General Fund all moneys required to meet the loan requests of the corporation, provided, however, that the total amount of money transferred to this fund from the General Fund shall not exceed two million five hundred thousand dollars ($2,500,000).

32813. The Controller shall disburse moneys from the fund to the corporation subject to the provisions of this chapter.

32814. The Controller shall deposit in the fund all moneys received from the corporation in repayment of the principal and interest of loans made to the corporation.

Article 3. Borrowing from the Fund

32820. The corporation is authorized to borrow money from the fund, subject to the following terms and conditions:

(a) The interest rate on loans from the fund to the corporation

shall be six percent per annum;

(b) The maximum term of the loans to the corporation shall be for 20 years;

32821. The corporation shall make application in writing to the Controller for loans from the fund.

32822. Within five working days after receipt of an application from the corporation for a loan from the fund, the Controller shall disburse the proceeds of the loan to the corporation, unless:

(a) The corporation is in default on any previous loan from the fund; or

(b) In order to lend the amount requested by the corporation the Controller would be required to transfer to the fund an amount which cumulatively would exceed the maximum amount specified in Section 32812.

32823. If the Controller finds either subdivision (a) or (b) of Section 32822 to be the case, the Controller shall deny the loan application of the corporation.

SEC. 2. Notwithstanding the provisions of Section 25804 of the Public Resources Code, the sum of seven hundred fifty thousand dollars ($750,000) is hereby appropriated from the Energy Resources Conservation and Development Reserve Account to the State Assistance Fund for Energy, California Business and Industrial Development Corporation for the purposes of Division 15.5 (commencing with Section 32000) of the Financial Code.

CHAPTER 820

An act to amend Section 2281 of, and to add Section 2282 to, the Food and Agricultural Code, relating to county agricultural commissioners.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 2281 of the Food and Agricultural Code is amended to read:

2281. Except as otherwise specifically provided, in all cases where provisions of this code place joint responsibility for the enforcement of laws and regulations on the director and the commissioner, the commissioner shall be responsible for local administration of the enforcement program. The director shall be responsible for overall statewide enforcement and shall issue instructions and make recommendations to the commissioner. Such instructions and recommendations shall govern the procedure to be followed by the commissioner in the discharge of his duties. The director shall furnish assistance in planning and otherwise developing an adequate county

enforcement program, including uniformity, coordination, training, special services, special equipment, and forms, statewide publicity, statewide planning, and emergency assistance.

The instructions and recommendations shall include a cost analysis of the local administration of such programs, determined from data supplied by the commissioner pursuant to Section 2272. Such cost analysis shall identify the joint programs or activities for which funds necessary to maintain adequate county administration and enforcement have not been provided. The director shall develop, jointly with the commissioners, county priorities for such enforcement programs and activities.

The director shall report annually to the Legislature his findings concerning the cost analysis with specific regard to programs where funds are inadequate for an efficient enforcement program, together with a listing of the priorities jointly established by the director and the commissioners that are contained in the formal instructions and recommendations of the director.

SEC. 2. Section 2282 is added to the Food and Agricultural Code, to read:

2282. The director may allocate annually to each county an amount determined by the director not to exceed one-third of the amount expended by the county during the previous fiscal year for each such program of joint responsibility, provided that no such county shall receive less for any such program than provided in the Budget Act of 1980. The allocations shall be made from funds appropriated to the director for purposes of carrying out activities of joint responsibility with the commissioners at the local levels.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 821

An act to amend Section 42652 of the Food and Agricultural Code, relating to enforcement of agricultural standards, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1980. Filed with Secretary of State July 28, 1980.]

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

SECTION 1. Section 42652 of the Food and Agricultural Code is amended to read:

42652. The refusal of any officer who is authorized under this division to carry out the orders and directions of the director in the enforcement of this division is neglect of duty; provided that the failure of any such officer to carry out such orders and directions shall not be neglect of duty if funds necessary to carry out such orders and directions are not provided.

SEC. 2. Notwithstanding any other provision of law, on the effective date of the Budget Act of 1980, the unencumbered balance of the appropriation provided for in Item 378 of the Budget Act of 1979 is reappropriated to the Department of Food and Agriculture for allocation to counties for the purpose of Item 378, as provided in Section 12104.5 of the Business and Professions Code, as proposed by Assembly Bill No. 2513 of the 1979–80 Regular Session of the Legislature, or as provided in Section 2282 of the Food and Agricultural Code, as proposed by Assembly Bill No. 2515 of that session, or both, as the case may be, if either or both are enacted. Such moneys shall be available for expenditure until June 30, 1981.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that funds reappropriated by this bill be available for expenditure during the entire 1980–81 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 822

An act to amend Sections 3051, 3052, 3102, 3106, 3109, 3155, 3200, and 3201 of the Welfare and Institutions Code, relating to commitment and treatment of narcotic addicts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State July 29, 1980.]

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

SECTION 1. Section 3051 of the Welfare and Institutions Code is amended to read:

3051. Upon conviction of a defendant for any crime in any superior court, or following revocation of probation previously granted, and upon imposition of sentence, if it appears to the judge that the defendant may be addicted or by reason of repeated use of narcotics may be in imminent danger of becoming addicted to

narcotics the judge shall suspend the execution of the sentence and order the district attorney to file a petition for commitment of the defendant to the Director of Corrections for confinement in the narcotic detention, treatment, and rehabilitation facility unless, in the opinion of the judge, the defendant's record and probation report indicate such a pattern of criminality that he or she does not constitute a fit subject for commitment under this section.

Upon the filing of such a petition, the court shall order the defendant to be examined by one physician; provided, that the examination may be waived by a defendant if the defendant has been examined in accordance with Section 1203.03 of the Penal Code and such examination encompassed whether defendant is addicted or is in imminent danger of addiction, and if the defendant is represented by counsel and competent to understand the effect of such waiver. At the request of the defendant, the court shall order the defendant to be examined by a second physician. At least one day before the time of the examination as fixed by the court order, a copy of the petition and order for examination shall be personally delivered to the defendant. A written report of the examination by the physician or physicians shall be delivered to the court, and if the report is to the effect that the person is not addicted nor in imminent danger of addiction, it shall so certify and return the defendant to the department of the superior court which directed the filing of the petition for the ordering of the execution of the sentence. Such court may, unless otherwise prohibited by law, modify such sentence or suspend the imposition of such sentence. If the report is to the effect that the defendant is addicted or is by reason of the repeated use of narcotics in imminent danger of addiction, further proceedings shall be conducted in compliance with Sections 3104, 3105, 3106, and 3107.

If, after a hearing, the judge finds that the defendant is a narcotic addict, or is by reason of the repeated use of narcotics in imminent danger of becoming addicted to narcotics, the judge shall make an order committing such person to the custody of the Director of Corrections for confinement in the facility until such time as he or she is discharged pursuant to Article 5 (commencing with Section 3200), except as this chapter permits earlier discharge. In any case to which Section 3052 applies, the judge may request the district attorney to investigate the facts relevant to the advisability of commitment pursuant to this section. If, upon the hearing, the judge shall find that the defendant is not a narcotic addict and is not in imminent danger of becoming addicted to narcotics, the judge shall so certify and return the defendant to the department of the superior court which directed the filing of the petition for the ordering of execution of sentence. Such court may, unless otherwise prohibited by law, modify such sentence or suspend the imposition of such sentence.

If a person committed pursuant to this section is dissatisfied with the order of commitment, he or she may within 10 days after the making of such order file a written demand for a jury trial in

compliance with Section 3108.

SEC. 2. Section 3052 of the Welfare and Institutions Code is amended to read:

3052. (a) Sections 3050 and 3051 shall not apply to any of the following:

(1) Persons convicted of any offense for which the provisions of Section 2691 of the Penal Code apply, or any offense described in Chapter 1 (commencing with Section 450) of Title 13 of Part 1 of such code; or any person convicted of committing or attempting to commit any violent felony as defined in subdivision (c) of Section 667.5 of the Penal Code.

(2) Persons whose sentence is enhanced pursuant to subdivision (b) of Section 12022 of the Penal Code, or Section 12022.3, 12022.5, 12022.6, 12022.7, or 12022.8 of such code; or persons whose sentence is subject to the provisions of Section 3046 of the Penal Code; or persons whose conviction results in a sentence which, in the aggregate, exclusive of any credit that may be earned pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 of the Penal Code, exceeds six years' imprisonment in state prison; or persons found to come under the provisions of Section 1203.06 of the Penal Code.

(b) Notwithstanding the provisions of subdivision (a) of this section or Section 3053, the fact a person comes within Section 1203.07 of the Penal Code does not mean that he or she may not be committed and treated.

SEC. 3. Section 3102 of the Welfare and Institutions Code is amended to read:

3102. Upon the filing of a proper petition pursuant to Section 3100, the court shall order the person sought to be committed to be examined by two physicians. Upon the filing of a proper petition pursuant to Section 3100.6, accompanied by the affidavit of the examining physician, the court need not order the person sought to be committed to be examined by any other physician or physicians. The court may also order that the person be confined pending hearing in a county hospital or other suitable institution designated by the board of supervisors of the county if the petition is accompanied by the affidavit of a physician alleging that the physician has examined such person within 72 hours prior to the filing of the petition, excluding Saturdays, Sundays, and judicial holidays, and has concluded that, unless confined, such person is likely to injure himself or herself, or others, or become a menace to the public. In any case in which a person is so ordered to be confined, the person in charge of the institution shall provide the person ordered confined with medical aid as necessary to ease any symptoms of withdrawal from the use of narcotics. Such medical aid shall not be administered by a peace officer who is not licensed as a physician and surgeon.

SEC. 4. Section 3106 of the Welfare and Institutions Code is amended to read:

3106. At the hearing, the court shall determine whether the person is addicted to the use of narcotics or is by reason of the repeated use of narcotics in imminent danger of addiction. The court shall compel the attendance of the physicians who conducted the examination required by Section 3050, 3051, 3100.6 or 3102, who shall testify as to the result of the examination, unless the presence of the physicians is waived and it is stipulated that their affidavit or report may be received in evidence.

SEC. 5. Section 3109 of the Welfare and Institutions Code is amended to read:

3109. (a) If at any time following receipt at the facility of a person committed pursuant to this article, the Director of Corrections concludes that such person is not, because of excessive criminality or for other relevant reason, a fit subject for confinement or treatment in a facility of the Department of Corrections, the director may order such person discharged.

(b) A person committed pursuant to this article who is subsequently committed to the Director of Corrections pursuant to Section 1168 or 1170 of the Penal Code shall not be a fit subject for treatment pursuant to this article and shall be ordered discharged.

(c) Persons sentenced pursuant to Section 1170 of the Penal Code, but whose sentence was not executed pending commitment pursuant to Section 3051 of this code, shall, immediately upon discharge pursuant to this section, be returned by the director to the sentencing court for execution of the sentence that had been suspended. Such court may, unless otherwise prohibited by law, modify such sentence, dismiss the criminal charges of which such person was convicted, or suspend further proceedings, as it deems warranted in the interest of justice.

SEC. 6. Section 3155 of the Welfare and Institutions Code is amended to read:

3155. In addition to any other payment to which he or she is entitled by law, each person who has been committed to the custody of the Director of Corrections pursuant to this chapter shall, upon his or her release, be paid the sum of two hundred dollars ($200), from such appropriations that may be made available for the purposes of this section.

The director may prescribe rules and regulations (a) to limit or eliminate any payments provided for in this section to persons who have not been confined at least six consecutive months prior to their release in instances where the director determines that such a payment is not necessary for the rehabilitation of the prisoner, and (b) to establish procedures for the payment of the sum of the two hundred dollars ($200) within the first 60 days of a prisoner's release.

The provisions of this section shall not be applicable if the person is released to the custody of another state or to the custody of the federal government, nor shall they apply to persons discharged pursuant to Section 3109 who subsequently, as a result of such discharge, are committed to state prison.

SEC. 7. Section 3200 of the Welfare and Institutions Code is amended to read:

3200. (a) If at any time the Director of Corrections is of the opinion that a person committed pursuant to Article 3 (commencing with Section 3100) while in outpatient status has abstained from the use of narcotics, other than as medically prescribed in a methadone program pursuant to Section 3154, for at least six consecutive months and has otherwise complied with the conditions of his or her release, the director shall recommend to the Narcotic Addict Evaluation Authority that such person be discharged from the program. If the authority concurs in the opinion of the director, it shall discharge such person from the program.

(b) If at any time the director is of the opinion that a person committed for a period of 24 months, or less, pursuant to Article 2 (commencing with Section 3050) while in outpatient status has abstained from the use of narcotics, other than as medically prescribed in a methadone program pursuant to Section 3154, for at least 12 consecutive months and has otherwise complied with the conditions of his or her release, or if at any time the director is of the opinion that a person committed for a period of more than 24 months pursuant to Article 2 (commencing with Section 3050) while in outpatient status has abstained from the use of narcotics, other than as medically prescribed in a methadone program pursuant to Section 3154, for at least 16 consecutive months and has otherwise complied with the conditions of his or her release, the director shall so advise the Narcotic Addict Evaluation Authority. If the authority concurs in the opinion of the director, it shall file with the superior court of the county in which the person was committed a certificate alleging such facts and recommending to the court the discharge of the person from the program. The authority shall serve a copy of such certificate upon the district attorney of the county. Upon the filing of such certificate, the court shall discharge the person from the program. The court may, unless otherwise prohibited by law, modify the sentence, dismiss the criminal charges of which such person was convicted, or suspend further proceedings, as it deems warranted in the interests of justice. Where such person was certified to the superior court from a municipal or justice court, the person shall be returned to such court, which may dismiss the original charges. In any case where the criminal charges are not dismissed and the person is sentenced thereon, time served in custody while under commitment pursuant to Article 2 (commencing with Section 3050) shall be credited on such sentence. Such dismissal shall have the same force and effect as a dismissal under Section 1203.4 of the Penal Code, except the conviction is a prior conviction for purposes of Division 10 (commencing with Section 11000) of the Health and Safety Code.

SEC. 8. Section 3201 of the Welfare and Institutions Code is amended to read:

3201. (a) Except as otherwise provided in subdivisions (b) and (c) of this section, if a person committed pursuant to this chapter has

not been discharged from the program prior to expiration of 16 months, the Director of Corrections shall, on the expiration of such period, return him or her to the court from which he or she was committed, which court shall discharge him or her from the program and order him or her returned to the court in which criminal proceedings were adjourned, or the imposition of sentence suspended, prior to his or her commitment or certification to the superior court.

(b) Any other provision of this chapter notwithstanding, in any case in which a person was committed pursuant to Article 3 (commencing with Section 3100), such person shall be discharged no later than 12 months after his or her commitment.

(c) Any person committed pursuant to Article 2 (commencing with Section 3050), whose execution of sentence in accordance with the provisions of Section 1170 of the Penal Code was suspended pending a commitment pursuant to Section 3051, who has spent, pursuant to this chapter, a period of time in confinement or in custody, excluding any time spent on outpatient status, equal to that which he or she would have otherwise spent in state prison had sentence been executed, including application of good behavior and participation credit provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 of the Penal Code, shall, upon reaching such accumulation of time, be returned by the Director of Corrections to the court from which such person was committed, which court shall discharge him or her from the program and order him or her returned to the court which suspended execution of such person's sentence to state prison. Such court, notwithstanding any other provision of law, shall suspend or terminate further proceedings in the interest of justice, modify the sentence, or order execution of the suspended sentence. Upon the ordering of the execution of such sentence, the term imposed shall be deemed to have been served in full; however, such person may be subject to a period of parole, to include anti-narcotic testing, as may be provided pursuant to the provisions of Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code, unless the court, for good cause, waives such parole and discharges the person from the custody of the Director of Corrections.

Except as otherwise provided in the preceding paragraph, or as otherwise provided in Section 3200, the period of commitment, including outpatient status, for persons committed pursuant to Section 3051, which commitment is subsequent to a criminal conviction for which execution of sentence to state prison is suspended, shall equal the term imposed under Section 1170 of the Penal Code, notwithstanding good time and participation credit provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 of such code. Upon reaching such period of time, such person shall be returned by the Director of Corrections to the court from which he or she was committed, which court shall

discharge such person from the program and order him or her returned to the court which suspended execution of the person's sentence to state prison. Such court, notwithstanding any other provision of law, shall suspend or terminate further proceedings in the interest of justice, modify the sentence, or order execution of the suspended sentence. Upon the ordering of the execution of such sentence, the term imposed shall be deemed to have been served in full; however, such person may be subject to a period of parole, to include anti-narcotic testing, as may be provided pursuant to the provisions of Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code unless the court, for good cause, waives such parole and discharges the person from the custody of the Director of Corrections.

Nothing in this section shall preclude a person who has been discharged from the program from being recommitted under the program, irrespective of the periods of time of any previous commitments.

SEC. 9. The amendments made by this act relating to a person convicted of a crime shall apply prospectively to a person who commits a crime on or after the effective date of this act.

Any person not convicted of a crime who was committed under the provisions of Division 3 (commencing with Section 3000) of the Welfare and Institutions Code prior to the effective date of this act, shall be discharged if such person has already served 12 months, including outpatient time, from the date of commitment or if such person has not already served 12 months, then such person shall be discharged when he or she serves 12 months, including outpatient time, from the date of commitment.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to bring the California Rehabilitation Center program into conformance with the Determinate Sentencing Act and other civil commitments, it is necessary that this act take immediate effect.

CHAPTER 823

An act to amend Section 65863.5 of, and to add Section 65302.8 to, the Government Code, relating to local planning.

[Became law without Governor's signature Filed with Secretary of State July 29, 1980]

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

SECTION 1. Section 65302.8 is added to the Government Code, to read:

65302.8. If a county or city, including a charter city, adopts or amends a mandatory general plan element which operates to limit the number of housing units which may be constructed on an annual basis, such adoption or amendment shall contain findings which justify reducing the housing opportunities of the region. The findings shall include all of the following:

(a) A description of the city's or county's appropriate share of the regional need for housing.

(b) A description of the specific housing programs and activities being undertaken by the local jurisdiction to fulfill the requirements of subdivision (c) of Section 65302.

(c) A description of how the public health, safety, and welfare would be promoted by such adoption or amendment.

(d) The fiscal and environmental resources available to the local jurisdiction.

SEC. 2. Section 65863.5 of the Government Code is amended to read:

65863.5. In carrying out the provisions of this chapter, any ordinance which operates to limit the number of housing units which may be constructed on an annual basis shall contain findings which justify reducing the housing opportunities of the region. The findings shall include all of the following:

(a) A description of the city's or county's appropriate share of the regional need for housing.

(b) A description of the specific housing programs and activities being undertaken by the local jurisdiction to fulfill the requirements of subdivision (c) of Section 65302.

(c) A description of how the public health, safety, and welfare would be promoted by such adoption or amendment.

(d) The fiscal and environmental resources available to the local jurisdiction. With respect to a charter city, this section shall apply to any zoning ordinance adopted by such charter city.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 824

An act relating to state claims, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State July 29, 1980.]

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

SECTION 1. (a) The sum of four hundred thirty-four thousand three hundred forty-two dollars and sixty cents ($434,342.60) is hereby appropriated from the General Fund to the State Board of Control to pay the claims of the Secretary of the State Board of Control.

(b) No funds appropriated under this section shall be used to pay claims or portions of claims which have been paid previously as a result of a settlement or judgment awarded to the claimant. All funds not used to pay claims because of a prior settlement or judgment shall revert to the General Fund.

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

In order to settle claims against the state and end hardships to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 825

An act to amend Sections 73432, 73433, 73435, 73436, 73437, 74921.5, 74921.6, 74922.5, 74923, 74923.5, and 74924 of, and to add Section 73432.1 to, the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State July 29, 1980.]

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

SECTION 1. Section 73432 of the Government Code is amended to read:

73432. The judges of the West Kern Municipal Court District may appoint one traffic referee who shall hold office at the pleasure of the judges.

A traffic referee appointed by the municipal court judges shall have the powers and duties specified for traffic referees in Sections 72401 and 72402.

SEC. 2. Section 73432.1 is added to the Government Code, to

read:

73432.1. (a) The judges of the West Kern Municipal Court may appoint one commissioner. The commissioner shall possess the same qualifications as the law requires of a judge of the court. Within the jurisdiction of the court and under the direction of the judges, the commissioner shall exercise the powers and perform the duties authorized by law to be performed by commissioners of the superior court and such additional powers and duties as may be prescribed by law.

(b) The commissioner shall be paid biweekly, pursuant to the payroll procedures in effect in the County of Kern, in an amount equal to 70 to 75 percent of a municipal court judge's salary. The court shall determine the level of salary to be received by the commissioner based on qualifications, performance, and other factors deemed relevant by the court. The biweekly salary rate of the commissioner shall be adjusted at the same time and manner and in the same percentage amount as set forth in Section 68203.

(c) In addition to the compensation provided for in this section, the commissioner shall be entitled to and shall receive on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacation. The commissioner shall observe the same holidays as other court employees.

SEC. 3. Section 73433 of the Government Code is amended to read:

73433. There shall be one clerk-administrator in each municipal court who shall be appointed by and serve at the pleasure of a majority of the judges of the court to which the clerk-administrator is appointed. In a court with less than three judges, the presiding judge shall appoint the clerk-administrator of the court. The clerk-administrator of the East Kern Municipal Court shall receive the biweekly salary specified in range 41.2 of the salary schedule. The clerk-administrator of the West Kern Municipal Court shall receive the biweekly salary specified in range 46.4 of the salary schedule. The salary of the West Kern clerk-administrator of the municipal court shall be not less than 9.8 full range steps higher than the salary range in which the position of deputy municipal court clerk IV is compensated.

SEC. 4. Section 73435 of the Government Code is amended to read:

73435. The clerk-administrator of the West Kern Municipal Court may appoint:

(a) Four deputy municipal court clerks IV, who shall act as the supervisors of the civil, criminal, traffic, and accounting divisions of the court and each of whom shall receive the biweekly salary specified in range 34.4 of the salary schedule.

(b) Ten deputy municipal court clerks III, each of whom shall receive the biweekly salary specified in range 32.5 of the salary schedule.

(c) Eight municipal courtroom clerks or junior municipal courtroom clerks, each of whom shall receive the biweekly salary specified in ranges 32.5 and 29.7, respectively, of the salary schedule.

Junior municipal courtroom clerk shall be the entrance position to courtroom clerk. The clerk-administrator, with the concurrence of the presiding judge, may advance any junior municipal courtroom clerk to the position of municipal courtroom clerk without further examination, if the junior municipal courtroom clerk has served for six months and otherwise meets the qualifications for municipal courtroom clerk and if the presiding judge is satisfied with the junior municipal courtroom clerk's performance during the six-month period.

(d) One data entry operator III who shall receive the biweekly salary specified in range 28.8 of the salary schedule.

(e) Three data entry operators II or I, each of whom shall receive the salary specified in ranges 27.0 and 25.2, respectively, of the salary schedule. Data entry operator I shall be the entrance position to the data entry operator series. The clerk-administrator may advance any data entry operator I to the position of data entry operator II without further examination if the data entry operator I has served for one year and otherwise meets the qualifications for data entry operator II.

(f) One account clerk III who shall receive the biweekly salary specified in range 29.2 of the salary schedule.

(g) Thirteen full-time and one part-time deputy municipal court clerks II, each of whom shall receive the biweekly salary specified in range 29.7 of the salary schedule.

(h) Twenty-two full-time deputy municipal court clerks I or junior deputy municipal court clerks, and two deputy municipal court clerks I or junior deputy municipal court clerks, part-time, each of whom shall receive the biweekly salary specified in ranges 25.2 and 22.4, respectively, of the salary schedule.

Junior deputy municipal court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy municipal court clerk to the position of deputy municipal court clerk I without further examination, if the junior deputy has served for six months and otherwise meets the qualifications for deputy municipal court clerk I.

(i) Two municipal court cashiers, who shall receive the biweekly salary specified in range 26.5 of the salary schedule.

SEC. 5. Section 73436 of the Government Code is amended to read:

73436. The clerk-administrator of the East Kern Municipal Court may appoint:

(a) Two deputy municipal court clerks III, each of whom shall receive the biweekly salary specified in range 32.5 of the salary schedule.

(b) Four deputy municipal court clerks II, each of whom shall receive the biweekly salary specified in range 29.7 of the salary

schedule.

(c) Two full-time and one part-time deputy municipal court clerks I, or junior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in ranges 25.2 and 22.4, respectively, of the salary schedule.

Junior deputy municipal court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy municipal court clerk to the position of deputy municipal court clerk I without further examination, if the junior deputy has served for six months and otherwise meets the qualifications for deputy municipal court clerk I.

SEC. 6. Section 73437 of the Government Code is amended to read:

73437. (a) Whenever reference to a numbered salary range of the salary schedule is made in any section of this article, the schedule of five step levels found in the salary ordinance of the County of Kern in effect on January 1, 1981, shall apply. The clerks and deputy clerks shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern on such date.

(b) Notwithstanding any other provision of this article:

(1) The minimum salary for each position shall normally be "step A" for the position. If it is difficult to secure qualified personnel at that step or if a person of unusual qualifications is engaged, the court or the clerk-administrator may hire at any step of the salary range applicable to the position.

(2) Any employee who is promoted or whose position is reclassified from one class position to a higher class position shall be placed in the step level of the higher class salary range which most closely approximates a one-step increase from the former position, except that such increase shall not exceed an amount equivalent to 1.4 steps in the salary schedule. In the event the "A" step of the higher class position is greater than a 1.4-step increase over the salary of the employee in the lower class position, the employee shall be placed at the "A" step in the salary range of the higher class position.

(c) Certain positions in the municipal court are comparable to certain positions in the classified civil service of the County of Kern. The comparable positions are, respectively, as follows:

Municipal court classifications	County classifications
Deputy municipal court clerk IV	Superior court clerk II
Deputy municipal court clerk III or municipal courtroom clerk	Superior court clerk I
Deputy municipal court clerk II or junior municipal courtroom clerk	Clerk IV
Deputy municipal court clerk I	Typist-clerk II
Junior deputy municipal court clerk	Typist-clerk I

The salaries paid by the County of Kern to persons holding the positions in the classified service of the County of Kern hereinabove

designated are paid in accordance with ordinances of the county adopted under the laws of the state and pursuant to a standardized salary schedule which, with respect to the several steps and ranges incorporated by reference in subdivision (a), is identical to the salary schedule incorporated by reference in subdivision (a). If and when the Board of Supervisors of the County of Kern adjusts the salaries paid to persons holding one or more of the respective positions among the county classifications hereinabove set forth, the salaries paid to persons holding each and every respective comparable position among the municipal court classifications hereinabove set forth shall be adjusted commensurately and in accordance with the provisions of this section. Such adjustment shall be effective the same date as the effective date of the action of the board of supervisors applicable to the respective and comparable county classifications. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature. No salary adjustment exceeding four full range steps in the respective salaries specified in this article may be made pursuant to this subdivision. In the event any amendment to the standardized salary schedule of Kern County and the steps and ranges incorporated by reference in subdivision (a), impairs or alters the identity now existing between the standardized salary schedule of Kern County and the steps and ranges incorporated by reference in subdivision (a), the salaries of the comparable positions among the municipal court classifications hereinabove set forth may not thereafter be adjusted pursuant to this subdivision.

(d) In addition to the compensation provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to, the same vacations, sick leaves, and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of Kern, including the right to participate in any group, accident, health or life insurance plan adopted by the Board of Supervisors of the County of Kern.

SEC. 7. Section 74921.5 of the Government Code is amended to read:

74921.5. In the Porterville Judicial District there shall be one clerk of the municipal court who shall also act as administrator and secretary of the court. The clerk may appoint one assistant clerk of the municipal court, two court clerks III, two court clerks II, two court clerks I and four intermediate clerk-typists, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 8. Section 74921.6 of the Government Code is amended to read:

74921.6. In the Tulare-Pixley Judicial District there shall be one clerk of the municipal court who shall also act as administrator and secretary of the court. The clerk may appoint one assistant clerk of the municipal court, two court clerks III, two court clerks II, three court clerks I and four intermediate clerk-typists, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 9. Section 74922.5 of the Government Code is amended to read:

74922.5. There shall be one marshal for each municipal court who shall receive a biweekly salary of seven hundred ninety-four dollars and thirty-two cents ($794.32). The marshal of the Visalia Judicial District may appoint three deputy marshals and one account clerk. The marshals of the Porterville and Tulare-Pixley Judicial Districts may each appoint two deputy marshals and one account clerk, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 10. Section 74923 of the Government Code is amended to read:

74923. The biweekly salaries for the following classes of positions shall be eighty (80) times the hourly rate set forth in the following schedule:

		Hourly rate				
	Range	A	B	C	D	E
Clerk of the municipal court	136	7.601	7.987	8.392	8.817	9.264
Assistant clerk of the municipal court	115	6.177	6.490	6.818	7.163	7.526
Court clerk III	105	5.597	5.880	6.177	6.490	6.818
Court clerk II	88	4.734	4.973	5.224	5.488	5.765
Court clerk I	74	4.125	4.333	4.552	4.781	5.022
Account clerk	74	4.125	4.333	4.552	4.781	5.022
Intermediate clerk-typist	70	3.966	4.166	4.376	4.597	4.828
Deputy marshal	120	6.490	6.818	7.163	7.526	7.908

SEC. 11. Section 74923.5 of the Government Code is amended to read:

74923.5. Notwithstanding the provisions of Section 72400, a majority of the presiding judges of the municipal courts of Tulare County may appoint one traffic referee who shall hold office at the pleasure of a majority of the presiding judges. The traffic referee shall serve in all the municipal courts in Tulare County by agreement of the presiding judges. The traffic referee shall be a member of the State Bar of California or have had five years' experience as a justice court judge in this state within the 15 years immediately preceding the appointment. The initial appointment shall be one of the nonsucceeding justice court judges of Tulare County. The traffic referee shall receive a salary of 50 percent of the salary received by a judge of the municipal court. The salary may be increased by the board of supervisors up to 65 percent of a municipal court judge's salary. The traffic referee shall be an ex officio deputy clerk of the court and shall be a member of any retirement system which includes the attachés of the court and shall receive the same fringe

benefits as granted to a county department head.

SEC. 12. Section 74924 of the Government Code is amended to read:

74924. Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed as follows:

(a) The initial hiring rate for each position shall normally be at step A. If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the approval of the board of supervisors, may employ such person at one of the higher salary steps provided for the position.

(b) All step increases shall not be given as a matter of right but only when the presiding judge of the court determines that the officer or employee is properly entitled to receive it. Each person employed in the office of the clerk or marshal, including the clerk, may be advanced from step A to step B of a position after the completion of 13 full pay periods of service in the position. A person may be advanced to steps C, D and E upon completion of 26 full pay periods of service in the same position.

(c) Certain classes of positions in the municipal courts in Tulare County are deemed to be comparable in job and salary level to certain positions in the service of the County of Tulare, or in some instances, to such positions with a range adjustment on the salary schedule of the County of Tulare. Whenever the salary of a classification in the service of Tulare County is adjusted by the board of supervisors the salary of the comparable classification in the municipal courts shall be adjusted an equal number of ranges on the currently effective salary schedule established by the board of supervisors. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the county service, but such adjustments shall be effective only until January 1 of the second year following the year in which such adjustments are made, unless ratified by the Legislature. The following table sets forth the municipal court classification with the comparable county classification with appropriate range adjustment, if any, shown opposite thereto:

Municipal court classification	County classifications
Clerk of the municipal court	Assistant county clerk minus 15 ranges
Assistant clerk	Court clerk IV plus 2 ranges
Court clerk III	Court clerk III
Court clerk II	Court clerk II
Court clerk I	Court clerk I
Account clerk	Account clerk
Intermediate clerk-typist	Intermediate clerk-typist
Marshal	Sheriff's sergeant
Deputy marshal	Bailiff plus two ranges

SEC. 13. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act since, as provided for in Section 6(a) of Article XIII B of the California Constitution, this act is requested by the local agency affected. Moreover, there shall be no claim considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 826

An act to amend Section 18191 of, and to add and repeal Section 18212.1 of, the Financial Code, relating to industrial loan companies.

[Became law without Governor's signature Filed with Secretary of State July 29, 1980]

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

SECTION 1. Section 18191 of the Financial Code is amended to read:

18191. Sections 18008, 18009, 18010, 18212, 18212.1, 18214, 18219, 18220, 18222, 18230 through 18234, 18290 through 18295, and 18439 do not apply to:

(a) Any bona fide loan of a principal amount of ten thousand dollars ($10,000) or more or to an industrial loan company in connection with any such loan if the provisions of the section are not used for the purpose of evading this division.

(b) An amount due from a contingent guarantor on his obligations purchased under the provisions of this division.

(c) A loan to a primary borrower who has pledged accounts receivable or installment accounts to secure loans which taken in the aggregate amount to ten thousand dollars ($10,000) or more.

SEC. 2. Section 18212.1 is added to the Financial Code, to read:

18212.1. As an alternative to the charges authorized by Section 18212 a licensee may contract for and receive charges at a rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate

for advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

In order to facilitate the evaluation of the adequacy of the discount rate index and differential by the Commissioner of Corporations, this section shall remain in effect until January 1, 1983, and as of that date is repealed.

CHAPTER 827

An act to amend Section 23428.13 of the Business and Professions Code, relating to alcoholic beverages.

[Became law without Governor's signature Filed with Secretary of State July 29, 1980]

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

SECTION 1. Section 23428.13 of the Business and Professions Code is amended to read:

23428.13. For purposes of this article "club" also means any club operated by a common carrier by air at an airport terminal. Such club shall qualify for a license under this article notwithstanding the provisions of Section 23037. The provisions of Section 23399 and the numerical limitation of Section 23430 shall not apply to such a club.

Nothing contained in Section 23434 shall be deemed to preclude the issuance of a license to the acquiring or surviving corporation when a corporation holding a license pursuant to this section is an acquired or constituent corporation in a corporate reorganization.

CHAPTER 828

An act relating to local law enforcement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with Secretary of State July 29, 1980]

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

SECTION 1. The sum of eight hundred seventy thousand four hundred ten dollars ($870,410) is hereby appropriated from the General Fund to the Controller for expenditure in the 1980–81 fiscal year for the purpose of satisfying the remainder of the claims made pursuant to the provisions of Chapter 1204 of the Statutes of 1979.

SEC. 2. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to avoid further delay in allocating the remainder of funds to satisfy 1978–79 fiscal year claims of local agencies approved by the State Board of Control and the State Controller pursuant to Chapter 1204 of the Statutes of 1979, it is necessary that this act take immediate effect.

CHAPTER 829

An act to amend Sections 73483, 73484, 73486, 73487, 73489, 73705, 73706, 73709, 73710, 74803, 74804, 74806, 74807, and 74807.5 of the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State July 29, 1980]

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

SECTION 1. Section 73483 of the Government Code is amended to read:

73483. The clerk may appoint:

(a) One (1) chief deputy clerk who shall be assistant administrative officer and chief deputy.

(b) Two (2) deputy clerks IV.

(c) Three (3) deputy clerks III.

(d) Three (3) deputy clerks II.

(e) Five (5) deputy clerks I.

SEC. 2. Section 73484 of the Government Code is amended to read:

73484. There shall be one marshal who shall receive the biweekly salary specified in range 51.75 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 3. Section 73486 of the Government Code is amended to read:

73486. The following biweekly salary schedule shall apply to persons employed in the clerk's office and marshal's office:

Salary range number	Steps				
	A	B	C	D	E

31	298.40	313.60	329.60	346.40	364.00
32	313.60	329.60	346.40	364.00	382.40
33	329.60	346.40	364.00	382.40	401.60
34	346.40	364.00	382.40	401.60	421.60
35	364.00	382.40	401.60	421.60	442.40
36	382.40	401.60	421.60	442.40	464.80
37	401.60	421.60	442.40	464.80	488.00
38	421.60	442.40	464.80	488.00	512.80
39	442.40	464.80	488.00	512.80	538.40
40	464.80	488.00	512.80	538.40	565.60
41	488.00	512.80	538.40	565.60	593.60
42	512.80	538.40	565.60	593.60	623.20
43	538.40	565.60	593.60	623.20	654.40
44	565.60	593.60	623.20	654.40	687.20
45	593.60	623.20	654.40	687.20	721.60
46	623.20	654.40	687.20	721.60	757.60
47	654.40	687.20	721.60	757.60	795.20
48	687.20	721.60	757.60	795.20	835.20
49	721.60	757.60	795.20	835.20	876.80
50	757.60	795.20	835.20	876.80	920.80
51	795.20	835.20	876.80	920.80	967.20
52	835.20	876.80	920.80	967.20	1,015.20
53	876.80	920.80	967.20	1,015.20	1,065.60
54	920.80	967.20	1,015.20	1,065.60	1,119.20
55	967.20	1,015.20	1,065.60	1,119.20	1,175.20
56	1,015.20	1,065.60	1,119.20	1,175.20	1,233.60
57	1,065.60	1,119.20	1,175.20	1,233.60	1,295.20
58	1,119.20	1,175.20	1,233.60	1,295.20	1,360.00
59	1,175.20	1,233.60	1,295.20	1,360.00	1,428.00
60	1,233.60	1,295.20	1,360.00	1,428.00	1,499.20

SEC. 4. Section 73487 of the Government Code is amended to read:

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction, then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	33.75
(b) Deputy clerk II	35.75
(c) Deputy clerk III	37.75
(d) Deputy clerk IV	41.00
(e) Chief deputy clerk	43.00
(f) Clerk	46.00
(g) Clerk typist II	33.75

(h) Deputy Marshal 44.75

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his assigned range, until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC 4.5. Section 73489 of the Government Code is amended to read:

73489. For purposes of salary adjustments required by Section 73488, the following classes are deemed to be related:

(a) The class of clerk-typist II in the service of the County of San Joaquin and the classes of deputy clerk I, deputy clerk II, deputy clerk III, and clerk-typist II in the court positions.

(b) The class of superior court clerk in the service of San Joaquin County, the classes of deputy clerk IV, chief deputy clerk, and clerk in the court positions.

(c) The class of deputy sheriff I in the service of San Joaquin County and the class of deputy marshal in the court.

(d) The class of lieutenant in the service of San Joaquin County and the position of marshal in the court.

SEC. 5. Section 73705 of the Government Code is amended to read:

73705. The clerk may appoint:

(a) Two (2) chief deputy clerks who shall be assistant administrative officers.

(b) Two (2) deputy clerks III.

(c) Six (6) deputy clerks II.

(d) Nine (9) deputy clerks I.

SEC. 6. Section 73706 of the Government Code is amended to read:

73706. There shall be one marshal who shall receive the biweekly salary specified in range 51.75 as set forth in the biweekly salary schedule contained in Section 73709. Whenever the salary of lieutenant in the service of the County of San Joaquin is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1, of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 7. Section 73709 of the Government Code is amended to read:

73709. The following biweekly salary schedule shall apply to persons employed in the clerk's office and marshal's office:

Salary range number	Steps				
	A	B	C	D	E
31	298.40	313.60	329.60	346.40	364.00

32	313.60	329.60	346.40	364.00	382.40
33	329.60	346.40	364.00	382.40	401.60
34	346.40	364.00	382.40	401.60	421.60
35	364.00	382.40	401.60	421.60	442.60
36	382.40	401.60	421.60	442.60	464.80
37	401.60	421.60	442.60	464.80	488.00
38	421.60	442.60	464.80	488.00	512.80
39	442.60	464.80	488.00	512.80	538.40
40	464.80	488.00	512.80	538.40	565.60
41	488.00	512.80	538.40	565.60	593.60
42	512.80	538.40	565.60	593.60	623.20
43	538.40	565.60	593.60	623.20	654.40
44	565.60	593.60	623.20	654.40	687.20
45	593.60	623.20	654.40	687.20	721.60
46	623.20	654.40	687.20	721.60	757.60
47	654.40	687.20	721.60	757.60	795.20
48	687.20	721.60	757.60	795.20	835.20
49	721.60	757.60	795.20	835.20	876.80
50	757.60	795.20	835.20	876.80	920.80
51	795.20	835.20	876.80	920.80	967.20
52	835.20	876.80	920.80	967.20	1,015.20
53	876.80	920.80	967.20	1,015.20	1,065.60
54	920.80	967.20	1,015.20	1,065.60	1,119.20
55	967.20	1,015.20	1,065.60	1,119.20	1,175.20
56	1,015.20	1,065.60	1,119.20	1,175.20	1,233.60
57	1,065.60	1,119.20	1,175.20	1,233.60	1,295.20
58	1,119.20	1,175.20	1,233.60	1,295.20	1,360.00
59	1,175.20	1,233.60	1,295.20	1,360.00	1,428.00
60	1,233.60	1,295.20	1,360.00	1,428.00	1,499.20

SEC. 8. Section 73710 of the Government Code is amended to read:

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	33.75
(b) Deputy clerk II	35.75
(c) Deputy clerk III	37.75
(d) Chief deputy clerk	45.25
(e) Clerk	46.00
(f) Clerk-typist II	33.75
(g) Senior deputy marshal	47.00
(h) Deputy marshal	44.75

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range, until the employee reaches the maximum step on the range assigned for his position. Thereafter, no additional step increase shall be granted.

SEC. 8.5. Section 74803 of the Government Code is amended to read:

74803. The clerk may appoint:

(a) One (1) chief deputy clerk who shall be assistant administrative officer and chief deputy.

(b) Eleven (11) deputy clerks IV.

(c) Three (3) deputy clerks III.

(d) One (1) deputy clerk III (stenographer).

(e) Seven (7) deputy clerks II.

(f) Twenty-seven (27) deputy clerks I.

SEC. 9. Section 74804 of the Government Code is amended to read:

74804. There shall be one marshal who shall receive the biweekly salary specified in range 54.75 as set forth in the biweekly salary schedule contained in Section 74806.

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1, of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 10. Section 74806 of the Government Code is amended to read:

74806. The following biweekly salary schedule shall apply to persons employed in the clerk's office and the marshal's office:

Salary range number	Steps				
	A	B	C	D	E
31	298.40	313.60	329.60	346.40	364.00
32	313.60	329.60	346.40	364.00	382.40
33	329.60	346.40	364.00	382.40	401.60
34	346.40	364.00	382.40	401.60	421.60
35	364.00	382.40	401.60	421.60	442.40
36	382.40	401.60	421.60	442.40	464.80
37	401.60	421.60	442.40	464.80	488.00
38	421.60	442.40	464.80	488.00	512.80
39	442.40	464.80	488.00	512.80	538.40
40	464.80	488.00	512.80	538.40	565.60
41	488.00	512.80	538.40	565.60	593.60
42	512.80	538.40	565.60	593.60	623.20
43	538.40	565.60	593.60	623.20	654.40
44	565.60	593.60	623.20	654.40	687.20

45	593.60	623.20	654.40	687.20	721.60
46	623.20	654.40	687.20	721.60	757.60
47	654.40	687.20	721.60	757.60	795.20
48	687.20	721.60	757.60	795.20	835.20
49	721.60	757.60	795.20	835.20	876.80
50	757.60	795.20	835.20	876.80	920.80
51	795.20	835.20	876.80	920.80	967.20
52	835.20	876.80	920.80	967.20	1,015.20
53	876.80	920.80	967.20	1,015.20	1,065.60
54	920.80	967.20	1,015.20	1,065.60	1,119.20
55	967.20	1,015.20	1,065.60	1,119.20	1,175.20
56	1,015.20	1,065.60	1,119.20	1,175.20	1,233.60
57	1,065.60	1,119.20	1,175.20	1,233.60	1,295.20
58	1,119.20	1,175.20	1,233.60	1,295.20	1,360.00
59	1,175.20	1,233.60	1,295.20	1,360.00	1,428.00
60	1,233.60	1,295.20	1,360.00	1,428.00	1,499.20

SEC. 11. Section 74807 of the Government Code is amended to read:

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	33.75
(b) Deputy clerk II	35.75
(c) Deputy clerk III	37.75
(d) Deputy clerk III (stenographer)	38.25
(e) Deputy clerk IV	41.00
(f) Chief deputy clerk	45.25
(g) Clerk	54.00
(h) Clerk typist II	33.75
(i) Deputy marshal	44.75
(j) Senior deputy marshal	47.00

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 12. Section 74807.5 of the Government Code, as added by Chapter 112 of the Statutes of 1978, is amended to read:

74807.5. There shall be one commissioner. The commissioner shall exercise, within the jurisdiction of the court, all the powers and

perform all the duties authorized by law. The commissioner shall receive a salary equal to 75 percent of the salary of a judge of the municipal court and shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

SEC. 13. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 830

An act to add Section 1987.4 to the Code of Civil Procedure, relating to subpoenas of business records.

[Became law without Governor's signature Filed with Secretary of State July 29, 1980.]

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

SECTION 1. Section 1987.4 is added to the Code of Civil Procedure, to read:

1987.4. All reasonable costs incurred by a custodian of records, or other qualified witness, of a business which is neither a party nor the place where any cause of action is alleged to have arisen, with respect to the production of all or any part of the records of the business pursuant to a subpoena duces tecum may be charged against the party who requested the issuance of the subpoena duces tecum. The custodian, upon demand, shall be paid costs pursuant to this section before being required to deliver the subpoenaed records. "Reasonable costs" as used in this section, means actual copying costs plus any additional reasonable clerical costs incurred in locating and making the records available. Such additional clerical costs shall be based on a computation of the time spent locating and making the records available multiplied by the employee's hourly wage.

CHAPTER 831

An act to add Section 6201.5 to the Public Resources Code, relating to state lands, and making an appropriation therefor.

[Became law without Governor's signature. Filed with Secretary of State July 29, 1980]

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

SECTION 1. Section 6201.5 is added to the Public Resources Code, to read:

6201.5. The commission shall prepare a master plan for all school and lieu lands under its jurisdiction. Such plan shall include a recreational element which requires, to the extent possible, that lands be maintained in a natural state, and shall incorporate a multiple use concept for land use planning. Such plan shall also include provision for beneficial uses of state school and lieu lands. Such beneficial uses include, but are not limited to, reforestation, timber stand improvement, alternative fuels management, range conservation, access acquisition, hazard removal and control, environmental rehabilitation, the development and maintenance of recreational trails, including foot trails and trails for motorized vehicles, the development and maintenance of water oriented recreational facilities, the identification and maintenance of primitive campsites, programs for encouraging environmentally sound mineral exploration and extraction, and the rehabilitation of lands impacted by mineral exploration or extraction. The plan shall also provide that any alterations to or development of state school or lieu lands should attempt to maintain the lands as nearly as possible in the condition existing prior to alteration or development. The commission shall annually revise such plan to include new lands under its jurisdiction. The master plan shall, to the extent possible, be prepared from funds otherwise available to the commission.

SEC. 2. (a) The State Lands Commission, the Attorney General, the Office of Planning and Research, and the Department of Fish and Game shall jointly conduct a study of lands in California which are currently managed by the Bureau of Land Management, Department of the Interior. Such study shall address the following questions:

(1) Does California have a legal basis to assume ownership of and jurisdiction over lands presently under the jurisdiction of the Bureau of Land Management, Department of the Interior?

(2) What are the current as well as proposed federal budget levels of support for management of Bureau of Land Management, Department of the Interior, lands? What revenues are presently derived and expected to be derived through the management of these lands?

(3) What are the financial requirements to ensure long-term productivity of Bureau of Land Management, Department of the Interior, lands?

(4) What have been the economic impacts on the State of California of Bureau of Land Management, Department of the Interior, ownership and management of public land within the state?

What local income and costs have been associated with Bureau of Land Management ownership and management of public land, and what are future local income and cost projections?

(5) What are the financial implications for California of the state assuming ownership and management of Bureau of Land Management, Department of the Interior, lands?

(b) A report on the study conducted pursuant to subdivision (a), together with recommendations, shall be submitted to the Governor and the Legislature by January 1, 1982.

(c) If the study indicates that legal action is necessary, the Attorney General shall take such action to vest the ownership and jurisdiction of lands currently managed by the Bureau of Land Management, Department of the Interior, in the State of California. The Attorney General shall take such additional action as he deems appropriate to serve the best interests of the people of the State of California.

(d) Any lands determined to be state lands shall be under the jurisdiction of the State Lands Commission unless the Legislature determines otherwise.

SEC. 3. Notwithstanding Article 10 (commencing with Section 38270) of Chapter 2 of Division 16.5 of the Vehicle Code, the sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Off-Highway Vehicle Fund for purposes of carrying out the study required pursuant to Section 2 of this act, as follows:

(a) The sum of ten thousand dollars ($10,000) to the State Lands Commission.

(b) The sum of five thousand dollars ($5,000) to the Attorney General.

(c) The sum of ten thousand dollars ($10,000) to the Office of Planning and Research for its own expenses and for the expenses of the Department of Fish and Game.

CHAPTER 832

An act to add Section 13852.5 to the Health and Safety Code, relating to fire protection district employer-employee relations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1980 Filed with Secretary of State August 22, 1980]

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

SECTION 1. Section 13852.5 is added to the Health and Safety Code, to read:

13852.5. (a) In counties of the fifth class where the board of directors is composed of the supervising authority, the district board may call an election to be held in the district for the purpose of

submitting to the qualified electors thereof the question of whether the district board may provide for a system of binding arbitration for the resolution of impasses in employer-employee relations.

(b) Where the district has created fire zones, the election specified in subdivision (a) shall be held only in those fire zones in which the district provides direct fire protection, and not in those fire zones in which fire protection is provided by contract with other agencies.

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

In order for the election authorized by this act to be held at the same time as the General Election on November 4, 1980, it is necessary that this act take immediate effect.

CHAPTER 833

An act to amend Section 66906.7 of the Government Code, and to amend Section 19 of Chapter 253 of the Statutes of 1980, relating to the Lake Tahoe region, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1980. Filed with Secretary of State August 27, 1980]

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

SECTION 1. Section 66906.7 of the Government Code, as amended by Chapter 253 of the Statutes of 1980, is amended to read:

66906.7. (a) The agency's expenses may be paid out of any agency funds including those acquired by gift or donation and from any money received from rents or leases of agency property. However, the expenditure of the agency for staff services shall not exceed 10 percent of the income from such sources.

(b) An amount, not to exceed one hundred thousand dollars ($100,000), may be appropriated annually from funds available pursuant to Section 66956 to the California Tahoe Conservancy Agency, or to any other agency which may be designated pursuant to Section 66957, for expenditure for the administration of this title and Title 7.43 (commencing with Section 66950).

(c) The sum of fifty thousand dollars ($50,000) is hereby appropriated from funds, which may become available pursuant to Section 66956, to the Tahoe Area Land Acquisition Commission for expenditure for the purposes of implementing statutes enacted pursuant to the provisions of Assembly Bill 2873 of the 1979–80 Regular Session of the Legislature.

SEC. 2. Section 19 of Chapter 253 of the Statutes of 1980 is

amended to read:

Sec. 19. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "For the Lake Tahoe Acquisitions Bond Act of 1980," and in the same square under those words, the following in eight-point type: "This act provides funding for the purchase of property in the Lake Tahoe Basin, which is necessary to prevent the environmental decline of this unique natural resource, to protect the waters of Lake Tahoe from further degradation, and to preserve the scenic and recreational values of Lake Tahoe. The amount provided by this act is eighty-five million dollars ($85,000,000)." In the square immediately below the square containing such words, there shall be printed on the ballot the words, "Against the Lake Tahoe Acquisitions Bond Act of 1980," and in the same square immediately below those words, in eight-point type: "This act provides for a bond issue of eighty-five million dollars ($85,000,000) to be used for the acquisition of property in the Lake Tahoe region for public purposes." Opposite the words "For the Lake Tahoe Acquisitions Bond Act of 1980," and "Against the Lake Tahoe Acquisitions Bond Act of 1980," there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act. Where the voting of the election is done by means of voting machines used pursuant to law in such manner as to carry out the intent of this section, the use of voting machines and the expression of the voters' choice by means thereof, shall be deemed to comply with the provisions of this section. The Governor of this state shall include the submission of this act to the people, as specified in this act, in his proclamation calling for the election.

SEC. 3. It is the intent of the Legislature to create the Tahoe Area Land Acquisition Commission to study all aspects of a state land purchase program for the Lake Tahoe region and to report thereon to the Legislature and the Governor, together with recommendations thereon, in accordance with the provisions of this act.

SEC. 4. The members of the Tahoe Area Land Acquisition Commission shall be selected as follows:

(a) One member shall be appointed by the Board of Supervisors of El Dorado County, one member shall be appointed by the Board of Supervisors of Placer County, and one member shall be appointed by the City Council of the City of South Lake Tahoe, each of whom shall be a resident of the Lake Tahoe region.

(b) Three members shall be appointed by the Senate Rules Committee.

(c) Three members shall be appointed by the Speaker of the Assembly.

(d) Six members shall be appointed by the Governor.

SEC. 5. The Tahoe Area Land Acquisition Commission shall study and make recommendations concerning the use of funds which are or may become available to the state for the purpose of

purchasing land to protect the resources of the Lake Tahoe region, including, but not limited to, funds that may become available pursuant to the Lake Tahoe Acquisitions Bond Act of 1980 (Title 7.43 (commencing with Section 66950) of the Government Code).

SEC. 6. The Tahoe Area Land Acquisition Commission in its study of land purchase in the Lake Tahoe region shall specifically direct itself to the following questions:

(a) What agency or agencies should be created or designated to make land purchases in the region?

(b) What use, if any, should be made of private nonprofit conservancy agencies as part of a land purchase program for the region?

(c) How should the lands acquired be managed, and what arrangements should be made to provide for management?

(d) What arrangements should be made to coordinate actions or consolidate land ownership among federal, state, and local agencies responsible for land purchase in the region?

(e) What priorities should be set for land purchases so as to best serve the need to protect water quality and other resources of the region?

(f) What use should be made of alternatives to acquisition in fee, including, but not limited to, easements, development rights, life estates, leases, leaseback agreements, and any rights acquired as a result of any special assessments on the property?

(g) What considerations or formulas should be relied on to determine a fair price for property where development is prohibited as a result of restrictions adopted to protect environmental quality in the region?

(h) What protections, if any, should be enacted to protect persons responsible for land purchase programs in the region from civil liability?

(i) What provision, if any, should be made to mitigate tax revenue losses to local government as a result of land purchases in the region?

(j) How can matching grants or other possible sources of federal funds be obtained as part of a land purchase program in the region?

SEC. 7. The Tahoe Area Land Acquisition Commission shall meet and organize itself at such times and places as shall be determined by the Secretary of the Resources Agency. The Resources Agency, in conjunction with the Office of Planning and Research, shall furnish the Tahoe Area Land Acquisition Commission with such staff or other assistance as may be necessary to the accomplishment of its purposes.

SEC. 8. The Tahoe Area Land Acquisition Commission shall report to the Legislature as follows:

(a) By March 1, 1981, on the questions posed in subdivisions (a), (b), (c), and (d) of Section 6 of this act;

(b) By June 30, 1981, on the remaining questions posed in subdivisions (e), (f), (g), (h), (i), and (j) of Section 6 of this act.

SEC. 9. The existence of the commission shall terminate not later

than six months after transmittal of the report required by subdivision (b) of Section 8 of this act.

SEC. 10. As used in this act, "Lake Tahoe region" and "region" means the area consisting of Lake Tahoe, the adjacent parts of the Counties of El Dorado and Placer lying within the Lake Tahoe watershed, and an additional and adjacent part of the County of Placer outside the Lake Tahoe watershed which lies southward and eastward of a line starting at the intersection of the watershed crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the watershed crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, MDB & M.

SEC. 11. (a) Notwithstanding subdivision (d) of Section 21191 of the Public Resources Code, the sum of fifty thousand dollars ($50,000) is hereby appropriated from the California Environmental License Plate Fund in the State Treasury to the Resources Agency for expenditure for the purposes of this act.

(b) The appropriation contained in subdivision (a) shall become operative only if the appropriation set forth in subdivision (c) of Section 66906.7 of the Government Code is not made.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of the Lake Tahoe Acquisitions Bond Act of 1980 (Title 7.43 (commencing with Section 66950) of the Government Code), if approved by the voters on November 4, 1980, may be carried out as expeditiously as possible, it is necessary that this act take effect immediately.

CHAPTER 834

An act submitting certain constitutional amendments to the people at the November 4, 1980, General Election, and to amend Section 5326 of the Education Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1980 Filed with Secretary of State August 27, 1980.]

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

SECTION 1. Section 5326 of the Education Code is amended to read:

5326. (a) At least 70 days, and not more than 110 days, before the school district or community college district election, the county clerk shall, by a general press release, set forth the following:

(1) The elective offices of the district to be filled at the ensuing

district election; and

(2) A telephone number which voters of the district may utilize in order to obtain information regarding filing for the elective district office.

(b) In addition to the publication requirements set forth in Part 3 (commencing with Section 23500) of Division 14 of the Elections Code, no more than 78 days nor less than 71 days prior to the school district or community college district election, the county clerk shall publish a notice once in a newspaper of general circulation published in the district, or, if no such newspaper is published in the district, in a newspaper having general circulation in the district which is published in any affected county in the district. The provisions of this section shall only apply if any of the following conditions exist at the time when the notice is submitted to such newspaper for publication:

(1) Only one person has been nominated for any elective office to be filled at the school district election.

(2) No person has been nominated for such office.

(3) In the case of members to be elected from the district at large the number of nominees for member at large does not exceed the number of offices to be filled at that election.

(4) In the case of members to be nominated by division and elected at large the number of nominees for member at large from a division does not exceed the number required to be elected from that division.

The provisions of this section and Sections 5327 and 5328 shall apply to elections for membership on the county board of education.

SEC. 2. Notwithstanding any other provision of law, Senate Constitutional Amendment No. 17 of the 1979–80 Regular Session of the Legislature shall be submitted to the electors at the November 4, 1980, General Election, if such measure is passed by the Legislature after June 26, 1980, and on or before August 31, 1980.

SEC. 3. Upon the effective date of this act, or upon the passage of the measure subject to the provisions of this act, whichever occurs last, the author of a constitutional amendment subject to the provisions of this act and one member of the opposite house who voted with the majority on the amendment, shall be appointed by the presiding officers of the respective houses to draft the argument for the adoption of the measure. If the constitutional amendment was not adopted unanimously by the house in which it was introduced, one member of that house, who voted against it, shall be appointed by the presiding officer of that house to write an argument against the measure. If there was no negative vote on the measure in the house in which it was introduced, the presiding officer of that house shall appoint some qualified person to draft an argument against the measure. No argument shall exceed 500 words. All initial arguments shall be filed with the Secretary of State by September 3, 1980.

SEC. 4. In no event shall arguments be submitted to the Secretary of State under this act later than the time limitations

imposed pursuant to this act. The selection and exchange of arguments shall occur on or before September 4, 1980, and in no event shall rebuttal arguments be submitted to the Secretary of State later than September 10, 1980.

SEC. 5. The Secretary of State shall request the Attorney General to prepare a ballot title for the measure submitted pursuant to this act and shall also request the Legislative Analyst to prepare an analysis of such measure in accordance with Section 88003 of the Government Code. The constitutional amendment subject to the provisions of this act shall be designated on the ballot at the General Election by its ballot title.

SEC. 6. Notwithstanding any other provision of law or Sections 2 to 5, inclusive, of this act, Senate Constitutional Amendment No. 37 of the 1979–80 Regular Session of the Legislature shall be submitted to the electors at the November 4, 1980, General Election, and shall be designated on the ballot as Proposition 11.

SEC. 7. Section 6 of this act shall become operative only if Senate Bill No. 2060 of the 1979–80 Regular Session of the Legislature is enacted.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Confusion has arisen as to the application of the law when only one person or no persons have filed for membership on a county board of education. In order to resolve this confusion at the earliest possible time and in order to allow voters the opportunity in 1980 to vote on important constitutional amendments passed by the Legislature after June 26, 1980, and on or before August 31, 1980, it is necessary that this act take effect immediately.

CHAPTER 835

An act establishing judicial salaries, relating to government.

[Approved by Governor August 27, 1980. Filed with Secretary of State August 27, 1980.]

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

SECTION 1. Notwithstanding any other provision of law, the salary for superior court judges effective January 5, 1981, shall be equal to the weighted average amount paid to sitting superior court judges as of December 31, 1980.

SEC. 2. Notwithstanding any other provision of law, the salary for municipal court judges effective January 5, 1981, shall be equal to the weighted average amount paid to sitting municipal court judges as of December 31, 1980.

SEC. 3. This act shall become operative only if Senate Constitutional Amendment No. 37 is submitted to the voters at the November 4, 1980, General Election.

CHAPTER 836

An act relating to preservation of the "H-4 Seaplane," and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1980 Filed with Secretary of State August 27, 1980.]

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

SECTION 1. The relocation to a temporary site and permanent site and the construction of a temporary and permanent facility in the City of Long Beach to accommodate the Hughes Flying Boat "H-4 Seaplane" for purposes of historic preservation shall be exempt from the requirements of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

This act shall remain in effect only until May 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before May 1, 1981, deletes or extends such date.

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

The Hughes Flying Boat "H-4 Seaplane," being a single-hulled, eight engine, laminated wood aircraft and the largest aircraft in aviation history, is of inestimable historic interest and value. In order that its preservation may be insured and its exposure to the elements minimized, it is necessary for construction of shelter and display facilities to commence as soon as possible and, therefore, that this act take effect immediately.

CHAPTER 837

An act to amend Section 65302.6 of, to add Sections 65300.7 and 65301.5 to, and to add and repeal Section 65302.1 of, the Government Code, relating to local planning.

[Approved by Governor August 27, 1980. Filed with Secretary of State August 28, 1980.]

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

SECTION 1. Section 65300.7 is added to the Government Code, to read:

65300.7. The Legislature finds that the diversity of the state's communities and their residents requires planning agencies and legislative bodies to implement this article in ways that accommodate local conditions and circumstances, while meeting its minimum requirements.

SEC. 2. Section 65301.5 is added to the Government Code, to read:

65301.5. The adoption of the general plan or any part or element thereof or the adoption of any amendment to such plan or any part or element thereof is a legislative act which shall be reviewable pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 3. Section 65302.1 is added to the Government Code, to read:

65302.1. The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each such element shall reflect local conditions and circumstances. However, the provisions of this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development to review housing elements pursuant to Section 50459 of the Health and Safety Code.

The requirements of this section shall apply to charter cities.

The Office of Planning and Research shall submit to the Legislature by January 1, 1985, a report on the effectiveness of the requirements of this section, recommended changes, if any, in such requirements, and recommendations as to the desirability of continuing such requirements in force after January 1, 1986.

This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 4. Section 65302.6 of the Government Code is amended to read:

65302.6. (a) Notwithstanding any other provision of law, upon application by a city, county, or city and county, including any city incorporated after September 30, 1974, the Director of Planning and Research shall grant a reasonable extension of time, not to exceed one year from the date of issuance of the extension, for the preparation and adoption of one or more general plan elements required by this article, if the legislative body of a city, county, or city and county, after a public hearing, makes one or more of the following findings:

(1) Data required for the element must be provided by another agency and it has not yet been provided.

(2) In spite of sufficient budgetary provisions and substantial recruiting efforts, the local agency has been unable to obtain necessary staff or consultant assistance.

(3) A disaster has occurred requiring reassignment of staff for an extended period or requiring a complete reevaluation and revision of the entire general plan, or both.

(4) Review procedures in local ordinances require an extended public review process which has resulted in delaying the decision by the local government's legislative body.

(5) The city or county is jointly preparing the elements along with one or more other jurisdictions, pursuant to an existing agreement and timetable for completion.

(6) Additional procedural reasons exist which justify the granting of an extension, so that the production and adoption of complete and adequate general plans is promoted.

(b) The purpose of this section is to permit cities and counties that have not yet adopted complete and adequate general plans to continue to review and approve development proposals pending adoption of a complete and adequate general plan; provided, however, such approvals are consistent with local policies and the element or elements for which an extension of time is sought.

(c) The application for an extension specified in subdivision (a) of this section shall contain the following elements:

(1) A resolution of the legislative body of the city, county, or city and county adopted after a public hearing setting forth in detail the reasons why the general plan was not previously adopted as required by law, including one or more of the findings made by the legislative body pursuant to subdivision (a), and the amount of additional time necessary to complete the preparation and adoption of all required elements.

(2) A copy of the specific budget and schedule for the general plan preparation and adoption including plans for citizen participation and expected interim products. The budget and schedule should be of sufficient detail to allow the director to assess each applicant's progress at regular intervals during the term of the extension.

(3) A set of proposed policies and procedures which would ensure, during the extension of time granted pursuant to this section, that the land use proposed in an application for a subdivision, rezoning, land use permit, variance or building permit will be consistent with the existing general plan elements, and on the basis of available information will be consistent with the new elements or plan proposals being considered or studied.

(d) During the extension of time specified in this section, the city or county is not subject to the requirement that a complete and adequate general plan be adopted or the time within which it must be adopted or the requirement that the land use be compatible or consistent with the general plan as required by Section 65302, 65563, 65567, 65860, 65910, or 66473.5, or subdivision (a) or (b) of Section

66474, of the Government Code. The provisions of this section shall apply only to those elements for which an extension has been granted. The city or county shall comply with all state laws and shall base all required findings on the existing adopted elements.

(e) The director may impose any conditions on extensions of time granted which the director deems are necessary to ensure full compliance with the State Planning and Zoning Law. In establishing such conditions, the director may adopt or modify and adopt any of the policies and procedures proposed by the city, county, or city and county, pursuant to paragraph (3) of subdivision (c).

(f) In the event that a city or county which has been granted a time extension pursuant to this section determines that it will not be able to complete the element or elements for which the extension has been granted within the prescribed time period, such city or county may request one additional extension. The director may grant such an additional extension of time, not to exceed one year, provided that the city or county is able to demonstrate that both substantial effort and substantial progress has been made toward the completion of such element or elements.

(g) An extension of time, granted pursuant to this section, for the preparation and adoption of one or more elements of a city or county general plan shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 838

An act to amend Sections 6831.1, 6864, 6894, 6920, 10213, 10220, and 10223 of, and to repeal and add Section 10228 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 1980. Filed with Secretary of State August 29, 1980.]

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

SECTION 1. Section 6831.1 of the Elections Code is amended to read:

6831.1. (a) Upon receiving the nomination paper if, from the examination of such pursuant to Section 6831, more than 500 signatures have been signed on the nomination paper petition, the

elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. Such a random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 90 to 110 percent of the number of signatures of qualified voters needed to declare the nomination paper sufficient, the elections official shall examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the nomination paper, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles is permitted by law.

(d) The elections official shall attach to the nomination paper, a certificate showing the result of this examination, and shall notify the candidate of either the sufficiency or insufficiency of the nomination paper.

(e) If the nomination paper is found insufficient, no action shall be taken on the nomination paper. However, the failure to secure sufficient signatures, shall not preclude the submission later of an entirely new nomination paper to the same effect.

(f) If the nomination paper is found to be sufficient, the elections official shall certify the results of the examination.

SEC. 2. Section 6864 of the Elections Code is amended to read:

6864. Circulators appointed to obtain signatures to the nomination paper of any candidate may, at any time not more than 148 nor less than 88 days prior to the election, obtain signatures to the nomination paper of the candidate.

SEC. 3. Section 6894 of the Elections Code is amended to read:

6894. Within 24 days after any nomination papers are left for examination, the county clerk shall examine them and affix to them a certificate reciting that he has examined them, and stating the number of names which have not been marked "not sufficient." All nomination papers which are required to be filed in the office of the Secretary of State shall be forwarded by the county clerk to the Secretary of State, who shall receive and file them.

SEC. 4. Section 6920 of the Elections Code is amended to read:

6920. Each candidate, at least 88 days prior to the election, shall leave with the officer with whom his nomination papers are required to be left an affidavit which shall state:

(a) His residence, with street and number, if any.

(b) His election precinct.

(c) That he is a voter in the precinct in which he resides.

(d) The name of the office for which he is a candidate.

(e) That he will not withdraw as a candidate before the election.

(f) That, if elected, he will qualify for the office.

The name of a candidate shall not be placed on the ballot unless the affidavit provided for in this section has been properly filed.

SEC. 5. Section 10213 of the Elections Code is amended to read:

10213. The order of precedence of offices on the ballot shall be as listed below for those offices and measures which apply to the election for which this ballot is provided. Beginning in the column to the left:

(a) Under the heading, PRESIDENT AND VICE PRESIDENT:

(1) Nominees of the qualified political parties for President and Vice President.

(b) Under the heading, PRESIDENT OF THE UNITED STATES:

(1) Names of the presidential candidates to whom the delegates are pledged.

(2) Names of chairmen of unpledged delegations.

(c) Under the heading, STATE:

(1) Governor

(2) Lieutenant Governor

(3) Secretary of State

(4) Controller

(5) Treasurer

(6) Attorney General

(7) Member, State Board of Equalization

(d) Under the heading, UNITED STATES SENATOR: Candidates or nominees to the United States Senate

(e) Under the heading, UNITED STATES REPRESENTATIVE: Candidates or nominees to the House of Representatives of the United States

(f) Under the heading, STATE SENATOR: Candidates or nominees to the State Senate

(g) Under the heading, MEMBER OF THE STATE ASSEMBLY: Candidates or nominees to Assembly membership

(h) Under the heading, COUNTY COMMITTEE: Members of County Central Committee

(i) Under the heading, JUDICIAL:

(1) Chief Justice of California

(2) Associate Justice of the Supreme Court

(3) Presiding Justice, Court of Appeal

(4) Associate Justice, Court of Appeal

(5) Judge of the Superior Court

(6) Judge of the Municipal Court

(7) Judge of the Justice Court

(8) Marshal

(9) Constable

(j) Under the heading, SCHOOL:

(1) State Superintendent of Public Instruction

(2) County Superintendent of Schools

(3) County Board of Education Members

(4) College District Governing Board Members

(5) Unified District Governing Board Members
(6) High School District Governing Board Members
(7) Elementary District Governing Board Members
(k) Under the heading, COUNTY:
(1) County Supervisor
(2) Other offices in alphabetical order by the title of the office.
(*l*) Under the heading, CITY:
(1) Mayor
(2) Member, City Council
(3) Other offices in alphabetical order by the title of the office.
(m) Under the heading, DISTRICT:

Directors or trustees for each district in alphabetical order according to the name of the district.

(n) Under the heading, MEASURES SUBMITTED TO VOTE OF VOTERS and the appropriate heading from subdivisions (a) through (m), above, ballot measures in the order, state through district shown above, and within each jurisdiction, in the order prescribed by the official certifying them for the ballot.

In order to allow for the most efficient use of space on the ballot in counties which use a voting system, as defined in Section 15009, the county clerk may vary the order of subdivisions (j), (k), (l), and (m) as well as the order of offices within these subdivisions; provided, however, that the office of State Superintendent of Public Instruction shall always precede any school, county, or city office.

SEC. 6. Section 10220 of the Elections Code is amended to read:

10220. In the case of candidates for delegate to national convention, there shall be printed in boldface gothic type, not smaller than 12-point, across the column above the names of the persons preferred by the groups of candidates for delegates, the words, "President of the United States." The words "Vote for one group only" shall extend to the extreme right-hand margin of the column and over the voting square.

In the case of candidates for President and Vice President, the words "Vote for One Party" shall appear just below the heading "President and Vice President" and shall be printed so as to appear above the voting squares for that office. The heading "President and Vice President" shall be printed in boldface 12-point gothic type and shall be centered above the names of the candidates.

In the case of candidates for Justice of the Supreme Court and court of appeal, within the rectangle provided for each such candidate and immediately above the name of each such candidate, there shall appear the following: "For (designation of judicial office)." There shall be as many such headings as there are candidates for such judicial offices and such a heading shall not apply to more than one such judicial office.

In the case of all other candidates, each group of candidates to be voted on shall be preceded by the designation of the office for which they are running and the words "vote for one" or "vote for no more than two" or more according to the number to be nominated or

elected. The designation of the office shall be printed flush with the left-hand margin in boldfaced gothic type not smaller than eight-point. The words, "vote for _____" shall extend to the extreme right-hand margin of the column and over the voting square. The designation of the office and the directions for voting shall be separated from the candidates by a light line. There shall be no line between the headings for federal or legislative offices and the designation of the office and the directions for voting.

SEC. 7. Section 10223 of the Elections Code is amended to read:

10223. Each group of names of candidates for a particular office shall be separated from the succeeding group by a three-point rule. Each series of groups shall be headed by the caption "President of the United States," "President and Vice President," "State," "United States Senator," "United States Representative," "State Senator," "Member of the State Assembly," "County," or "Municipal" or other proper general classification, as the case may be, printed in boldfaced gothic capital type, not smaller than 12-point. Each caption shall be separated from the names of the candidates beneath by a two-point line.

SEC. 8. Section 10228 of the Elections Code is repealed.

SEC. 9. Section 10228 is added to the Elections Code, to read:

10228. Except as to the order of names of candidates the ballots shall be printed in substantially the following forms according to the type of election as shown in headings of the sample forms. The first and second examples represent primary election ballots whereas the third and fourth represent general election ballots.

6294

PERFORATED LINE

6294

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP NEVER WITH PEN OR PENCIL
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL)
(Fold ballot to this line leaving top margin exposed)

OFFICIAL BALLOT

REPUBLICAN PARTY

28th Congressional, 30th Senatorial, 57th Assembly District, Los Angeles County

June 2, 1964

INSTRUCTIONS TO VOTERS:

To vote for the group of candidates preferring a person whose name appears on the ballot stamp a cross (+) in the square opposite the name of the person preferred. To vote for a group of candidates not expressing a preference for a particular candidate stamp a cross (+) in the square opposite the name of the chairman of the group.

To vote for a candidate whose name appears on the ballot stamp a cross (+) in the voting square to the right of the candidate's name. Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all candidates for the office for whom you desire to vote not to exceed, however the number of candidates to be elected.

To vote for a qualified write-in candidate write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure stamp a cross (+) in the voting square after the word Yes or after the word No.

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil

PARTISAN OFFICES

PRESIDENT OF THE UNITED STATES
Vote for One Group Only

Candidates Preferring
BARRY M. GOLDWATER

Candidates Preferring
NELSON A. ROCKEFELLER

Candidates Expressing No Preference
William Wilkinson (Chairman)

UNITED STATES SENATOR
Vote for One

GEORGE MURPHY
Business Executive

FRED HALL
Attorney

LELAND M. KAISER
Businessman

UNITED STATES REPRESENTATIVE
Fifty Seventh District — Vote for One

ALPHONSO BELL
United States Congressman

LEE SOBLE
Publisher

MEMBER OF THE STATE ASSEMBLY
Twenty Eighth District — Vote for One

CHARLES J. CONRAD
Member of Assembly
Fifty Seventh District

COUNTY COMMITTEE

Member County Central Committee
57th Assembly District — Vote for No More Than Seven

MRS. R. SCOTT
Adopter

DUNCAN J. McALPINE
Retired Insurance Executive

AL EFFINGTON
Member / Fourth Committee

RICHARD E. CULBRANSON
Investment

LENORE F. TEAMANS
Investment

DARRELL (JACK) BEAVER

DENNIS J. HAYES
Physician

JACQUELINE (JACKIE) HARKER

MARTHA J. JANNEY
Investment

KENNETH HARRIS
Group Insurance Agency

HARRY L. THOMAS JR.
Finance

GERALD O. HOLDEOG
Corporate Treasurer

PETER T. TAYLOR
Working County Committee

FRANK L. YOUCE

RICHARD B. (DICK) CRAVEN
Corporation President

JAMES PATTERSON YOUNG
Attorney at Law

HARRY P. SADOMAN
Electronics Executive

HAROLD E. WHITE
Investment

TED P. THOMAS
Executive Vice President

DAVID M. STAPLES
Appointment Manager

BARBARA BORNQUEST
Fashion Consultant

LUCILLE J. BOSTON
Manufacturing Executive

JANET M. BARRETT
Businessman

NICHOLAS (NICK) MUNSEY
Film Executive

ELIZABETH (BETTY) PRENTZ

NONPARTISAN OFFICES

JUDICIAL

Judge of the Superior Court
Office No. Three — Vote for One

PHILBRICK M. FOX
Trial Attorney at Law

DONALD RAYMOND MEYNER
Attorney at Law

Judge of the Superior Court
Office No. Five — Vote for One

THOMAS CARL LINDHOLM
Attorney

MELANIE MARORELL
Attorney

PHIL L. HILLER
Attorney at Law

JOSEPH A. APPANELE JR.
Judge, Municipal Court

CHARLES H. WOODWARDMILE
Judge, Municipal Court
Los Angeles Judicial District

DONALD C. GALLAGHER
Attorney Law

Judge of the Superior Court
Office No. Sixteen — Vote for One

ALFRED GITELSON
Judge of the Superior Court

HARRY PRECKERSON
Attorney at Law

Judge of the Superior Court
Office No. Twenty Four — Vote for One

WILLIAM E. McFADDEN
Judge of the Superior Court

CHARLES W. REINMAN
Attorney at Law

Judge of the Superior Court
Office No. Twenty Nine — Vote for One

PAUL D. STRADER
Attorney at Law

VIRGIL VICTOR BECKER
Attorney at Law

FENDLAY A. CARTER
Attorney

LOUIS F. FLETCHER
Judge, Municipal Court

RAYMOND E. ROBERTS
Judge, Municipal Court
Los Angeles Judicial District

Judge of the Justice Court
Malibu Judicial District — Vote for One

MICHAEL C. COLLINS
Superior Court Clerk

J. LAWRENCE E. CARVEN
Attorney at Law

HARVEY V. GEORGE
Attorney

JOHN J. MERRICK
Attorney at Law

ROBERT O. RICHARDSON
Attorney at Law

COUNTY

Supervisor
5th District — Vote for One

WARREN M. DORN
Superior Court Judge (Retired)

ERNANI (ERNIE) BERNARDI
Councilman City of Los Angeles

LYNDON B. FOSTER
Publisher

CLARENCE A. OAKLEY
Mayor City of Pasadena

District Attorney — Vote for One

VINCENT T. DALSIMER
Judge of the Superior Court

EVELLE J. YOUNGER
Judge of the Superior Court

MANLEY J. BOWLER
Chief Deputy District Attorney

MEASURES SUBMITTED TO VOTE OF VOTERS

LOS NIETOS UNIFIED SCHOOL DISTRICT
MAXIMUM TAX RATE ELECTION

		YES	NO
B	Shall the maximum of rolling stock assessed tax rate of $3.63 in the Los Nietos Unified School District be increased to $3.80 for indefinite?		

8352

PERFORATED LINE

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP NEVER WITH PEN OR PENCIL

(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)

8352

(Fold ballot to this line leaving top margin exposed)

OFFICIAL BALLOT

NONPARTISAN BALLOT

19th Congressional, 38th Senatorial, 44th Assembly District, Los Angeles County June 4, 1980

INSTRUCTIONS TO VOTERS.

To vote for a candidate whose name appears on the ballot stamp a cross (+) in the voting square to the right of the candidate's name.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil.

JUDICIAL	
Judge of the Superior Court Office No. One — Vote for One	
EDWARD W. PEACOCK, Judge of the Superior Court	
Judge of the Superior Court Office No. Two — Vote for One	
SAMUEL B. BLAKE, Judge of the Superior Court	
Judge of the Superior Court Office No. Three — Vote for One	
CLARENCE L. KINCAID, Judge of the Superior Court	
Judge of the Superior Court Office No. Four — Vote for One	
THOMAS L. AMBROSE, Judge of the Superior Court	
Judge of the Superior Court Office No. Five — Vote for One	
CLARENCE M. HANSON, Judge of the Superior Court	
Judge of the Superior Court Office No. Six — Vote for One	
ALLEN W. ASHBURN, Judge of the Superior Court	
CHARLES B. MacCOY, Judge, Municipal Court, Los Angeles Judicial District	
Judge of the Superior Court Office No. Seven — Vote for One	
FREDERICK F. HOLSER, Judge of the Superior Court	
Judge of the Superior Court Office No. Eight — Vote for One	
DANIEL N. STEVENS, Judge of the Superior Court	
Judge of the Superior Court Office No. Nine — Vote for One	
PHILBRICK McCOY, Judge of the Superior Court	
Judge of the Superior Court Office No. Ten — Vote for One	
VICTOR B. HANSEN, Judge of the Superior Court	
Judge of the Superior Court Office No. Eleven — Vote for One	
JOSEPH H. BISHOP, Judge of the Superior Court	
IDA MAY ADAMS, Judge	

COUNTY	
Supervisor Fourth District — Vote for One	
RAYMOND V. DUFFY, Supervisor Fourth District, Los Angeles County	
GLENN M. ANDERSON, Business Man	
CRATTON F. REEDS, Public Relations Counselor	
HAROLD HARRY, Commissioner Cars of Los Angeles	
ARTHUR E. HILL, Executive Executive	
LEONARD J. MORCLLEN, Auditor	
ERNEST A. STEWART, Tax Management	
ERIK WHITE, Automobile Dealer	
District Attorney — Vote for One	
E. ERNEST BOLL, District Attorney, Los Angeles County	
CLAYTON A. WATSON, Attorney at Law	

Z—L NN

1156

PERFORATED LINE

1156

MARK CROSSES (✛) ON BALLOT ONLY WITH RUBBER STAMP NEVER WITH PEN OR PENCIL
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)
(Fold ballot to this line leaving top margin exposed)

OFFICIAL BALLOT

22d Congressional, 28th Senatorial, 57th Assembly District, Los Angeles County

November 6, 1956

INSTRUCTIONS TO VOTERS:

To vote for all of the electors of a party stamp a cross (✛) in the square opposite the names of the presidential and vice presidential candidates of that party. A cross (✛) stamped in the square opposite the name of a party and its presidential and vice presidential candidates, is a vote for all of the electors of that party but for no other candidates. To vote for those electors who have pledged themselves to vote for a candidate for President and for Vice President of any party not qualified to participate in the election write in the names and party of those presidential and vice presidential candidates in the blank space provided for that purpose.

To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice Court of Appeal stamp a cross (✛) in the voting square after the word "Yes" to the right of the name of the candidate. To vote against that candidate stamp a cross (✛) in the voting square after the word "No" to the right of the name of that candidate.

To vote for any other candidate of your selection, stamp a cross (✛) in the voting square next to the right of the candidate's name. Where two or more candidates for the same office are to be elected, stamp a cross (✛) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however the number of candidates to be elected.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure, stamp a cross (✛) in the voting square after the word "Yes" or after the word "No".

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (✛) with pen or pencil.

PRESIDENT AND VICE PRESIDENT

Vote for One Party

ADLAI E. STEVENSON	for President	Democratic	
ESTES KEFAUVER	for Vice President		
DWIGHT D. EISENHOWER,	for President	Republican	
RICHARD M. NIXON	for Vice President		
ENOCH A. HOLTWICK,	for President	Prohibition	
EDWIN M. COOPER,	for Vice President		
	for President		
	for Vice President		

UNITED STATES SENATOR

Vote for One

THOMAS H. KUCHEL, Republican United States Senator	
RAY COULSLEY [illegible], Prohibition [illegible]	
RICHARD RICHARDS, Democratic California State Senator	

UNITED STATES REPRESENTATIVE

Twenty second District — Vote for One

JOE HOLT, Republican United States Congressman	
IRVING GLASBAND, Democratic Business Executive	

MEMBER OF THE STATE ASSEMBLY

Fifty seventh District — Vote for One

CHARLES J. CONRAD, Republican Member Assembly 57th District	
CHARLES MANFRED, Democratic Teacher	

JUDICIAL

For Chief Justice of California		
Shall DONALD R. WRIGHT be elected to the office for the term prescribed by law?	YES	
	NO	
For Associate Justice of the Supreme Court		
Shall DOUGLAS L. EDMONDS be elected to the office for the term prescribed by law?	YES	
	NO	
For Associate Justice of the Supreme Court		
Shall JOHN W. SHENK be elected to the office for the term prescribed by law?	YES	
	NO	
For Presiding Justice, Court of Appeal, Second Appellate District Division One		
Shall PARKER WOOD be elected to the office for the term prescribed by law?	YES	
	NO	
For Associate Justice, Court of Appeal, Second Appellate District Division One		
Shall LOUIS C. DRAPEAU be elected to the office for the term prescribed by law?	YES	
	NO	
For Associate Justice, Court of Appeal, Second Appellate District Division One		
Shall CLEMENT L. SHINN be elected to the office for the term prescribed by law?	YES	
	NO	

Judge of the Superior Court, Office No. 28 — Vote for One

JOSEPH L. CALL Judge of the Municipal Court	
FLETCHER BOWRON Attorney at Law	

MEASURES SUBMITTED TO VOTE OF VOTERS

No.	Measure		
1	FOR THE VETERANS BOND ACT OF 1956. This act provides for a bond issue of five hundred million dollars ($500,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.		
	AGAINST THE VETERANS BOND ACT OF 1956. This act provides for a bond issue of five hundred million dollars ($500,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.		
2	SCHOOL BONDS. Senate Constitutional Amendment No. 11. [illegible]	YES	
		NO	
3	STATE CONSTRUCTION PROGRAM BONDS. Assembly Constitutional Amendment No. 17. [illegible]	YES	
		NO	
4	OIL AND GAS CONSERVATION. Initiative. [illegible]	YES	
		NO	
5	ALCOHOLIC BEVERAGE ESTABLISHMENTS. Senate Constitutional Amendment No. 2. [illegible]	YES	
		NO	
6	CHURCH EXEMPTION PARKING LOTS. Assembly Constitutional Amendment No. 3. [illegible]	YES	
		NO	
7	STATE LEGISLATURE. Assembly Constitutional Amendment No. 66. Changes name of the Assembly of California Legislature to House of Representatives.	YES	
		NO	
8	LEGISLATIVE BUDGET SESSIONS. Senate Constitutional Amendment No. 4. [illegible]	YES	
		NO	
9	BOROUGH FORM OF COUNTY GOVERNMENT. Assembly Constitutional Amendment No. 40. [illegible]	YES	
		NO	
10	STATE CIVIL SERVICE CONTRACT ARCHITECTS AND ENGINEERS. Senate Constitutional Amendment No. 6. [illegible]	YES	
		NO	
11	FRAMING COUNTY CHARTERS. Assembly Constitutional Amendment No. 4. Allows one year instead of six months for preparation of proposed county charter by board of freeholders.	YES	
		NO	
12	STATE INDEBTEDNESS. Senate Constitutional Amendment No. 7. [illegible]	YES	
		NO	
13	REPEALING ALIEN LAND LAW. Repeal of Initiative Act. Submitted by Legislature. [illegible] right to hold real estate in California.	YES	
		NO	
14	LEGISLATIVE EMPLOYEES. Assembly Constitutional Amendment No. 6. [illegible]	YES	
		NO	
15	PUBLIC WATER SUPPLIES: MUTUAL WATER COMPANIES. Senate Constitutional Amendment No. 20. [illegible]	YES	
		NO	
16	CIVIL AND CRIMINAL APPEALS. Assembly Constitutional Amendment No. 24. [illegible]	YES	
		NO	
17	CONSTITUTIONAL PROVISIONS RELATING TO JUDICIARY. Assembly Constitutional Amendment No. 32. [illegible]	YES	
		NO	
18	INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 42. [illegible] continuously since November 7, 1945.	YES	
		NO	
19	STATE BOUNDARIES. Senate Constitutional Amendment No. 13. [illegible] boundary changes.	YES	
		NO	

COUNTY QUESTIONS

A	COUNTY BOND PROPOSITION A. [illegible] Shall the County of Los Angeles incur a bonded indebtedness [illegible] ($15,458,000) [illegible]	BONDS YES	
		BONDS NO	
B	COUNTY BOND PROPOSITION B. [illegible] Shall the County of Los Angeles incur a bonded indebtedness [illegible] ($15,400,000) [illegible]	BONDS YES	
		BONDS NO	
C	SPECIAL COUNTY PROPOSITION NO. 1. Shall the Board of Supervisors of the County of Los Angeles be authorized [illegible] Part 2, Division 2, Title III of the Government Code of the State of California?	YES	
		NO	
D	PROPOSED COUNTY CHARTER AMENDMENT NO. 1. Shall paragraph 4 of Section 14 of Article IV of the Charter of the County of Los Angeles be amended [illegible]	YES	
		NO	

LOS ANGELES CITY SPECIAL MUNICIPAL ELECTION

M	SALARY OF MEMBERS OF THE CITY COUNCIL LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT M. Shall Section 60.1 be added to the charter to increase the salary of members of the city council from that heretofore last fixed in 1948?	YES	
		NO	
N	SALARY OF MAYOR LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT N. Shall Section 60.2 be added to the charter to increase the salary of the mayor from that heretofore last fixed in 1948?	YES	
		NO	
O	SALARY OF CITY ATTORNEY LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT O. Shall Section 60.3 be added to the charter to increase the salary of the city attorney from that heretofore last fixed in 1948?	YES	
		NO	
P	SALARY OF CITY CONTROLLER LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT P. Shall Section 60.4 be added to the charter to increase the salary of the city controller from that heretofore last fixed in 1948?	YES	
		NO	
Q	CHANGE IN LIMITATION ON AUTHORITY OF DEPARTMENT OF WATER AND POWER TO ISSUE REVENUE BONDS. CITY OF LOS ANGELES CHARTER AMENDMENT Q. [illegible]	YES	
		NO	
R	SOCIAL SECURITY FOR EMPLOYEES OF THE DEPARTMENT OF WATER AND POWER. CITY OF LOS ANGELES CHARTER AMENDMENT R. [illegible] of the Federal Social Security Act?	YES	
		NO	
S	LIMITATION OF HEIGHT OF BUILDINGS BY FLOOR AREA RATIO INSTEAD OF BY EXISTING FIXED HEIGHT LIMIT OF 150 FEET. CITY OF LOS ANGELES CHARTER AMENDMENT S. [illegible]	YES	
		NO	

[illegible]

1154

1154

MARK CROSSES (✠) ON BALLOT ONLY WITH RUBBER STAMP NEVER WITH PEN OR PENCIL
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL)
(Fold ballot to this line leaving top margin exposed)

OFFICIAL BALLOT

22d Congressional, 38th Senatorial, 57th Assembly District, Los Angeles County

November 2, 1954

INSTRUCTIONS TO VOTERS.

To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice, Court of Appeal, stamp a cross (✠) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate stamp a cross (✠) in the voting square after the word "No," to the right of the name of that candidate.

To vote for any other candidate of your selection, stamp a cross (✠) in the voting square to the right of the candidate's name. Where two or more candidates for the same office are to be elected, stamp a cross (✠) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however, the number of candidates to be elected.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure, stamp a cross (✠) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear, or deface this ballot, return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (✠) with pen or pencil.

STATE

Governor — Vote for One

GOODWIN J. KNIGHT, Republican — Governor of California	
RICHARD PERRIN GRAVES, Democratic — Governmental Administrator	

Lieutenant Governor — Vote for One

HAROLD J. POWERS, Republican — Lieutenant Governor	
EDWARD R. ROYBAL, Democratic — Member Los Angeles City Council	

Secretary of State — Vote for One

FRANK M. JORDAN, Republican — Secretary of State	
FRANK C. H. STEVENS, Prohibition — Minister	
HORACE V. ALEXANDER, Independent Progressive — Machinist	
DANIEL BARBOUR, Democratic — Newspaper Publisher	

Controller — Vote for One

ROBERT C. KIRKWOOD, Republican — State Controller	
GEORGE D. COLLINS, JR., Democratic — Assemblyman 24th District, California Legislature	
FRED H. ROSS, Prohibition	

Treasurer — Vote for One

CHARLES G. JOHNSON, Republican — State Treasurer	
HERBERT I. COHN, Independent Progressive	
GEORGE E. JOHNSON, Democratic — Business Executive	

Attorney General — Vote for One

EDMUND G. (PAT) BROWN, Democratic — Attorney General of California	
EDWIN M. COOPER, Prohibition — Attorney	

Member State Board of Equalization, Fourth District — Vote for One

WILLIAM G. BONELLI, Democratic — Member State Board of Equalization	
ROBERT E. McDAVID, Republican — Certified Public Accountant	

UNITED STATES SENATOR

Vote for One (Short term, ending January 3, 1957)

THOMAS H. KUCHEL, Republican — United States Senator	
ISOBEL M. CERNEY, Independent Progressive — Teacher and Writer	
SAMUEL WILLIAM YORTY, Democratic — Member of United States Congress	

UNITED STATES REPRESENTATIVE

Twenty-second District — Vote for One

JOE HOLT, Republican — Member of Congress	
WILLIAM M. COSTLEY, Democratic — Attorney at Law	

STATE SENATOR

Thirty-eighth District — Vote for One

FRANK NELSON, Prohibition — Radio Broadcaster	
RICHARD RICHARDS, Democratic — Attorney at Law	
MILDRED YOUNGER, Republican — Housewife	

MEMBER OF THE STATE ASSEMBLY

Fifty-seventh District — Vote for One

CHARLES J. CONRAD, Republican — Member Assembly 57th District	
CLIFFORD H. MARKER, Democratic — Business Executive	

JUDICIAL

For Chief Justice of California

Shall DONALD R. WRIGHT be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice of the Supreme Court

Shall DOUGLAS L. EDMONDS be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice of the Supreme Court

Shall JOHN W. SHENK be elected to the office for the term prescribed by law?	YES	
	NO	

For Presiding Justice, Court of Appeal, Second Appellate District, Division One

Shall PARKER WOOD be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice, Court of Appeal, Second Appellate District, Division One

Shall LOUIS C. DRAPEAU be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice, Court of Appeal, Second Appellate District, Division One

Shall CLEMENT L. SHINN be elected to the office for the term prescribed by law?	YES	
	NO	

MEASURES SUBMITTED TO VOTE OF VOTERS

No.	Measure		
1	FOR THE VETERANS BOND ACT OF 1954. This act provides for a bond issue of one hundred seventy-five million dollars ($175,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.		
	AGAINST THE VETERANS BOND ACT OF 1954. This act provides for a bond issue of one hundred seventy-five million dollars ($175,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.		
2	SCHOOL BONDS. Senate Constitutional Amendment No. 2. [illegible]	YES	
		NO	
3	ALCOHOLIC BEVERAGE CONTROL. Senate Constitutional Amendment No. 4. Establishes Department of Alcoholic Beverage Control [illegible]	YES	
		NO	
4	AID TO NEEDY AGED. Initiative Constitutional Amendment. [illegible]	YES	
		NO	
5	TAXATION. EXEMPTION OF VESSELS. Senate Constitutional Amendment No. 13. [illegible] January 1, 1956.	YES	
		NO	
6	PAY OF LEGISLATORS. Assembly Constitutional Amendment No. 13. Sets salaries of Members of the State Legislature [illegible] per month.	YES	
		NO	
7	LAND TITLES. TORRENS ACT. Amendment of Initiative Act. [illegible] Land Title Law [illegible]	YES	
		NO	
8	TAX EXEMPTION OF COMMERCIAL AND FISHING VESSELS. Senate Constitutional Amendment No. 28. [illegible]	YES	
		NO	
9	CHURCH EXEMPTION. PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 34. Provides that tax exemption of church buildings in the course of erection includes building equipment and the land on which the building is located.	YES	
		NO	
10	TERMS OF STATE OFFICERS. Assembly Constitutional Amendment No. 1. [illegible]	YES	
		NO	
11	TAXATION. EXEMPTION FOR DISABLED VETERANS. Assembly Constitutional Amendment No. 8. [illegible]	YES	
		NO	
12	VOTING ELIGIBILITY. Assembly Constitutional Amendment No. 80. Removes voting disqualification of persons convicted of infamous crime after he has completed paying penalties imposed by law for such crime.	YES	
		NO	
13	VERNON CITY CHARTER. Assembly Constitutional Amendment No. 80. Authorizes City of Vernon in Los Angeles County to propose charter for adoption [illegible]	YES	
		NO	
14	COLLEGE EXEMPTION. PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 33. [illegible]	YES	
		NO	
15	WELFARE EXEMPTION. PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 35. [illegible]	YES	
		NO	
16	WATER RIGHTS OF GOVERNMENT AGENCIES. Senate Constitutional Amendment No. 20. [illegible]	YES	
		NO	
17	STREET AND HIGHWAY FUNDS. VEHICLE PARKING. Assembly Constitutional Amendment No. 30. [illegible]	YES	
		NO	
18	RESIDENT NONCITIZENS. PROPERTY OWNERSHIP. Assembly Constitutional Amendment No. 10. [illegible]	YES	
		NO	
19	INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 87. [illegible]	YES	
		NO	
20	FRAMING COUNTY CHARTERS. Senate Constitutional Amendment No. 17. [illegible]	YES	
		NO	

COUNTY QUESTIONS

	Proposition		
A	PROPOSITION A. County General Hospital, Osteopathic Division. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds [illegible]	BONDS YES	
		NO	
B	PROPOSITION B. Court and Other County Facilities for Area Administrative Centers. Shall the County of Los Angeles incur a bonded indebtedness [illegible]	BONDS YES	
		NO	
C	PROPOSITION C. County Jail, Wayside Honor Rancho. Shall the County of Los Angeles incur a bonded indebtedness [illegible]	BONDS YES	
		NO	
D	PROPOSED COUNTY CHARTER AMENDMENT NO. 1. [illegible]	YES	
		NO	
E	PROPOSED COUNTY CHARTER AMENDMENT NO. 2. [illegible]	YES	
		NO	
F	PROPOSED COUNTY CHARTER AMENDMENT NO. 3. [illegible]	YES	
		NO	
G	PROPOSED COUNTY CHARTER AMENDMENT NO. 4. [illegible]	YES	
		NO	
H	PROPOSED COUNTY CHARTER AMENDMENT NO. 5. [illegible]	YES	
		NO	

SEC. 10. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to correct existing conflicts in the law with respect to the nomination process for independent candidates prior to the 1980 presidential election, and in order that the voters will be provided with a more readable ballot at the November 4, 1980, general election, it is necessary that this act take effect immediately.

CHAPTER 839

An act making an appropriation for capital outlay funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 1980 Filed with Secretary of State August 29, 1980]

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

SECTION 1. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6 and 6855 of, Sections 8551 to 8558, inclusive, of, and Section 6406 (insofar as the proceeds are from property which has been distributed or escheated to the state in connection with unclaimed estates of deceased persons) of, the Public Resources Code, the State Lands Commission shall deposit the sum of three million eight hundred seventy-two thousand four hundred seventy dollars ($3,872,470) of the revenues, moneys, and remittances received by it under Division 6 (commencing with Section 6001) of the Public Resources Code and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, into the General Fund, the provisions of Section 6217 of the Public Resources Code notwithstanding; provided, however, that the obligations provided for in subdivisions (a), (b), (c), and (d) of Section 6217 of the Public Resources Code have been met and that the Chairman of the State Lands Commission finds that there exists, as of July 1, 1980, an unencumbered balance available for appropriation of not less than one hundred twenty-five million dollars ($125,000,000) in the Capital Outlay Fund for public higher education.

SEC. 2. The sum of three million eight hundred seventy-two

thousand four hundred seventy dollars ($3,872,470) is hereby transferred from the General Fund to the State Controller for allocation to the Department of General Services for expenditure during the 1980–81, 1981–82, and 1982–83 fiscal years, except that appropriations for studies, planning, and working drawings, and minor capital outlay shall be available for expenditure only during the 1980–81 fiscal year. In addition, every appropriation made in this section for construction, or working drawings and construction, that has not been approved by the State Public Works Board on or before June 30, 1981, shall revert as of that date to the fund from which the appropriation was made.

For capital outlay, Department of General Services.... 3,872,470

Schedule:

(a) Construction—New State Office Building, San Jose 3,872,470

The appropriation contained in this section is in addition to any other amounts heretofore appropriated for this project and subject to all of the limitations applicable thereto.

SEC. 3. It is the intent of the Legislature that if a special account for capital outlay is created by legislation enacted during the 1979–80 Regular Session of the Legislature, upon the effective date of such an act, or if this act is chaptered after such an act, upon the effective date of this act, the sum of three million eight hundred seventy-two thousand four hundred seventy dollars ($3,872,470) shall be transferred from that special account for capital outlay in the General Fund to the Controller for allocation pursuant to Section 6217 of the Public Resources Code and pursuant to this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the benefits and savings which will result from this act to be maximized, it is necessary that this act become effective immediately.

CHAPTER 840

An act to add and repeal Section 8010 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Section 8010 is added to the Vehicle Code, to read:

8010. (a) Notwithstanding the provisions of this chapter, the commission may establish a pilot program to enter into agreements with other jurisdictions to provide for proportionate registration and licensing that fosters the concept of the International Registration Plan of one license plate and one cab card. Foreign jurisdictions participating in the pilot program may be authorized to collect all appropriate registration and license fees that are due to the State of California, and remit such fees to this state pursuant to the terms of the agreement. The State of California may collect all appropriate registration and license fees due other jurisdictions participating in the program and forward such fees as specified in the agreement. The authority to issue plates, tabs, permits, or other operating indicia shall be provided for in such agreement.

(b) No pilot program shall be adopted that may result in a loss of revenue as the revenues are now produced under applicable sections of the Vehicle Code and Revenue and Taxation Code and deposited in the Motor Vehicle Account and the Vehicle License Fee Account in the State Transportation Fund.

Before a pilot program is adopted, the commission shall consider the ramifications of the following:

(1) The definition of a fleet.

(2) Base state determination.

(3) Owner or operator and carrier reporting criteria.

(c) The commission shall make every effort to obtain federal funds to finance any implementation and ongoing expenditures of the pilot program that may result.

(d) This section shall remain in effect only until July 1, 1983, and on such date is repealed unless a later enacted statute extends or deletes such date.

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

Member jurisdictions and fleet owners who are part of the International Registration Plan (IRP) are awaiting California's decision as to whether or not the state will join the IRP. Prior to making such a decision, the State of California must obtain actual experience in the operating procedures and provisions of the IRP through implementation of a mini-IRP pilot program.

In order that the State of California may enter into agreements with a small number of other jurisdictions and begin planning and implementation efforts of the pilot program at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 841

An act making an appropriation for parks and recreation, and in this connection amending and supplementing the Budget Act of 1980 by adding Section 2.5B thereto.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 2.5B is added to the Budget Act of 1980, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

Sec. 2.5B. The following sums of money, or so much thereof, as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1980–81, 1981–82, and 1982–83 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1980–81 fiscal year. All such appropriations, unless otherwise herein provided, shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1964.

573.5B—For grants to counties, cities, or cities and counties pursuant to subdivision (d) of Section 5096.15 of the Public Resources Code, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 31,500

Schedule:

(a) To the County of San Bernardino for construction of visitor serving facilities on county-owned land in the Wrightwood county service area 31,500

provided, that none of the funds appropriated in this item may be encumbered until San Bernardino County encumbers at least $10,500 for this project; provided, further, that county approval is received for the project pursuant to Section 5096.16 of the Public Resources Code; and provided, further, that none of the funds which are appropriated by this item for the projects set forth herein shall be available for expenditure unless and until such projects are submitted to, and reviewed and approved by, the Secretary of the Resources Agency pursuant to Section 5096.20 of

the Public Resources Code.

CHAPTER 842

An act to amend Sections 26526 and 26529 of the Government Code, relating to county officers.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 26526 of the Government Code is amended to read:

26526. The county counsel, or if none the district attorney, is the legal adviser of the board of supervisors. The county counsel or if none, the district attorney, shall attend its meetings, when required, and shall attend and oppose all claims and accounts against the county he or she deems unjust and illegal.

SEC. 2. Section 26529 of the Government Code is amended to read:

26529. In counties which have a county counsel, the county counsel shall discharge all the duties vested in the district attorney by Sections 26520, 26522, 26523, 26524, and 26526. The county counsel shall defend or prosecute all civil actions and proceedings in which the county or any of its officers is concerned or is a party in his or her official capacity. Except where the county provides other counsel, the county counsel shall defend as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1 of the Government Code any action or proceeding brought against an officer, employee or servant of the county.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 843

An act to amend Section 10502 of the Government Code, relating to the Auditor General.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 10502 of the Government Code is amended to read:

10502. The committee shall consist of four Members of the Senate and four Members of the Assembly who shall be selected in the manner provided for in the Joint Rules of the Senate and Assembly. The committee shall elect its own chairman. Vacancies occurring in the membership of the committee between general sessions of the Legislature shall be filled in the manner provided for in the Joint Rules of the Senate and Assembly. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election.

CHAPTER 844

An act to amend Section 4036 of the Business and Professions Code, and to amend Sections 11161, 11162, 11164, and 11167 of, and to add Section 11167.5 to, the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Section 4036 of the Business and Professions Code is amended to read:

4036. (a) "Prescription" means an oral order given individually for the person(s) for whom prescribed, directly from the prescriber to the furnisher, or indirectly by means of a written order, signed by the prescriber, and shall bear the name(s) and address of the patient(s), the name and quantity of the drug or device prescribed, directions for use, and the date of issue, and either rubber stamped, typed, or printed by hand or typeset the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1

of Division 1 of the Health and Safety Code, shall prescribe or write a prescription.

Nothing in the amendments made to this section at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right which a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(b) Notwithstanding subdivision (a) of this section, a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, which contains at least the name and signature of the prescriber, the name(s) and address of the patient(s) in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist so long as any additional information required by subdivision (a) of this section is readily retrievable in the pharmacy. In the event of a conflict between the provisions of this subdivision and Section 11164 of the Health and Safety Code, the provisions of Section 11164 shall prevail.

(c) Except as provided in Section 4036.1, an oral prescription shall as soon as practicable be reduced to writing by the pharmacist and shall be filed by, or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number, license classification, federal registry number of the prescriber or the address of the patient(s) if such information is readily retrievable in the pharmacy.

SEC. 2. Section 11161 of the Health and Safety Code is amended to read:

11161. Prescription blanks shall be issued by the Department of Justice in serially numbered groups of not more than 100 forms each in triplicate, and shall be furnished to any practitioner authorized to write a prescription for controlled substances classified in Schedule II. The Department of Justice may charge a fee for such prescription blanks, not to exceed the actual costs of printing and distribution. Such prescription blanks shall not be transferable. Any person possessing any such prescription blank otherwise than as herein provided is guilty of a misdemeanor.

SEC. 3. Section 11162 of the Health and Safety Code is amended to read:

11162. The prescription blanks shall be printed on distinctive paper, the serial number of the group being shown on each form, and each form being serially numbered. The prescription blanks shall bear the preprinted name, address, and category of professional licensure of the practitioner to whom they are issued, except that the Department of Justice may issue, free of cost, any triplicate prescription blanks in its possession on January 1, 1981.

SEC. 4. Section 11164 of the Health and Safety Code is amended

to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II shall be wholly written in ink or indelible pencil in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Such prescriptions shall be prepared in triplicate, signed and dated by the prescriber, and shall contain the name and address of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, directions for use, and the address, category of professional licensure, and the federal controlled substance registration number of the prescriber. The original and one copy of such a prescription shall be delivered to the pharmacist filling the prescription. The original shall be retained by the pharmacist and the copy, properly endorsed by the pharmacist, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled. Upon receipt of an incompletely prepared official prescription form of the Department of Justice, the pharmacist may enter on the face of the prescription the address of the patient.

(b) Each prescription for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use. With respect to prescriptions for controlled substances classified in Schedule III, the signature, date, and information required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of the prescriber.

(2) In addition, the prescription shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of the prescriber. The information required by this paragraph shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand. Notwithstanding any provision in this section, the prescriber's address, telephone number, category of professional licensure, or federal controlled substances registration number need not appear on the prescription if such information is readily retrievable in the pharmacy.

(3) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify such address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or

maintain such information in a readily retrievable form in the pharmacy.

(c) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral prescription, which shall be reduced to writing by the pharmacist filling the prescription or by such other person as is expressly authorized by provisions of the Business and Professions Code. The date of issue of the prescription and all the information required for a written prescription by subdivision (b) shall be included in such written record of the prescription. The pharmacist need not reduce to writing the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient if such information is readily retrievable in the pharmacy. Pursuant to authorization of the prescriber, any employee of the prescriber on behalf of the prescriber may orally transmit a prescription for a controlled substance classified in Schedule III, IV or V, if in such cases the written record of the prescription required by this subdivision specifies the name of the employee of the prescriber transmitting the prescription.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Notwithstanding any provision of subdivisions (b) and (c), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

SEC. 5. Section 11167 of the Health and Safety Code is amended to read:

11167. In the event of an epidemic or accident or calamity, any controlled substance classified in Schedule II may be dispensed upon an oral prescription if failure to issue such a prescription might result in loss of life or intense suffering. Prior to filling such a prescription, the pharmacist shall reduce it to writing. The date of issue of the prescription and all the information required for a written prescription by Section 11164 shall be included in such written record of the prescription.

Additionally, in such an emergency a prescriber may issue a written prescription for a controlled substance classified in Schedule II upon a form other than the official prescription form issued by the Department of Justice. However, such a prescription shall in all other respects comply with the requirements of subdivision (a) of Section 11164.

When an emergency oral or written prescription is issued pursuant to this section, the prescriber shall within 72 hours submit the prescription in the form required by Section 11164 to the pharmacy or pharmacist filling the prescription. If the prescriber does not provide such a prescription within 72 hours, the pharmacist filling the emergency prescription shall, within 144 hours of the time the prescription was filled, so inform the Department of Justice.

SEC. 6. Section 11167.5 is added to the Health and Safety Code,

to read:

11167.5. When failure to issue a prescription for a controlled substance classified in Schedule II to a patient in a licensed skilled nursing facility or intermediate care facility would, in the opinion of the prescriber, present an immediate hazard to the patient's health and welfare or result in intense suffering to such patient, such prescription may be dispensed upon an oral prescription. Prior to filling such prescription, the pharmacist shall reduce it to writing in ink or indelible pencil in the handwriting of the pharmacist upon an official prescription form issued by the Department of Justice for that purpose. Such prescriptions shall be prepared in triplicate and shall contain the date the prescription was orally transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed facility in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, and federal controlled substance registration number of the prescriber. The original shall be retained by the pharmacist, and the duplicate shall be forwarded to the prescriber by the end of the month in which the prescription was issued. The triplicate shall be endorsed on the reverse with the signature of the pharmacist, the name and address of the pharmacy, and the signature of the person who received the controlled substances for the licensed facility and shall be forwarded by the pharmacist to the Department of Justice at the end of the month in which the prescription was filled. Upon request, a skilled nursing facility or intermediate care facility shall make available to the dispensing pharmacist copies of signed telephone orders, chart orders, or related documentation substantiating an oral prescription transaction under this section.

SEC. 7. The Board of Medical Quality Assurance shall, with the assistance of the Department of Justice, submit a written report to the Legislature, not later than February 1, 1982, analyzing the impact of this act as a deterrent to the abuse of controlled substances classified in Schedule II which are not narcotic drugs.

SEC. 8. The sum of one hundred forty thousand dollars ($140,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of this act.

CHAPTER 845

An act to amend Sections 798.35 and 798.37 of the Civil Code, relating to landlord and tenant.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 798.35 of the Civil Code is amended to read:

798.35. A tenant shall not be charged a fee based on the number of members in his immediate family. As used in this section, the "immediate family" includes the tenant, his or her spouse, their parents, and their children.

SEC. 2. Section 798.37 of the Civil Code is amended to read:

798.37. A tenant shall not be charged a fee for the entry, installation, hookup, or landscaping as a condition of tenancy, but reasonable landscaping and maintenance requirements may be included in the park rules and regulations. The management shall not require a tenant or prospective tenant to purchase, rent, or lease goods or services for landscaping from any person, company, or corporation.

CHAPTER 846

An act to add Division 7.8 (commencing with Section 8700) to the Public Resources Code, and to amend Section 38225 of, and to repeal Article 10 (commencing with Section 38270) of Chapter 2 of Division 16.5 of, the Vehicle Code, relating to off-highway vehicles, and making an appropriation therefor.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Division 7.8 (commencing with Section 8700) is added to the Public Resources Code, to read:

DIVISION 7.8. OFF-HIGHWAY VEHICLE RECREATION

8700. This division shall be known and may be cited as the Off-Highway Vehicle Recreation Act of 1980.

8701. There is hereby created the Office of Off-Highway Motor Vehicle Recreation in the Department of Parks and Recreation.

8701.2. The office shall be under the direction of the Chief of Off-Highway Recreation who shall be appointed by the Director of Parks and Recreation and report to the director.

The office shall manage, oversee, and direct the Off-Highway Vehicle Fund and be responsible for coordinating the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails and areas for the use of off-highway motor vehicles.

It is the intent of the Legislature that the office should oversee any and all operations, projects, or activities by the Department of Parks

and Recreation involving off-highway vehicles or the fund.

8702. The Legislature finds that vehicles not intended for use on the highway are enjoying an ever-increasing popularity in California and that indiscriminate and uncontrolled use of such vehicles has a deleterious impact on the environment, wildlife habitats, and native wildlife.

The Legislature hereby declares that adequate facilities for the use of off-highway vehicles are essential to maintenance of a desirable ecological balance. It is the intent of the Legislature that:

(a) Existing off-highway facilities be expanded.

(b) New facilities, including parks, trails, and access areas, be provided.

8703. "Office" means the Office of Off-Highway Motor Vehicle Recreation.

8704. "Fund" means the Off-Highway Vehicle Fund created pursuant to subdivision (b) of Section 38225 of the Vehicle Code.

8705. "Off-highway motor vehicle" means an "off-highway motor vehicle" as defined in Section 38006 of the Vehicle Code.

8706. Utilizing special fee funds, revenues transferred from the Motor Vehicle Fuel Account in the Transportation Tax Fund, unexpended service fees, and use fees in the fund, the office shall carry out programs of planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, areas, and other facilities for the use of off-highway motor vehicles. Such funds, revenues, and fees shall be allocated as follows:

(a) An amount, not to exceed 50 percent of the special fee and Motor Vehicle Fuel Account transfer revenues, shall be made available for grants to cities, counties, and appropriate districts for recreation projects for off-highway motor vehicles in accordance with local government planning and the statewide plans for trails for recreational motor vehicles developed by the office. Except as provided in Section 8707, local governments, to be eligible for these funds, shall provide matching funds, or the value of services, material, or property used, in an amount not less than 25 percent of the total expense of the off-highway motor vehicle facility.

Portions of this amount not allocated to cities, counties, and appropriate districts shall be available to the office for cooperative agreements with federal agencies for acquisition projects or development projects, or both, for the recreational use of off-highway motor vehicles.

(b) The remainder of the special fee funds, Motor Vehicle Fuel Account transfer revenues, and all unexpended service fees, and all use fee funds, shall be expended by the office for recreational areas, trails, and other facilities for the use of off-highway motor vehicles.

8707. Notwithstanding subdivision (a) of Section 8706, there shall be no matching fund requirement imposed with respect to any grant or portion of any grant that consists of funding for the planning, acquisition, development, or construction of a regional off-highway

motor vehicle project. The office shall adopt criteria for the determination of which projects are regional. The criteria shall take into account, at a minimum, all of the following:

(a) That the project for which a grant is requested is or will be primarily for casual usage.

(b) The size of each project.

(c) The diversity of vehicle-related recreational activities to be provided by the project.

(d) The size of the population of potential users of the project and the extent of the geographic area to be served by the project.

(e) The potential for each project for which a grant is requested to become financially self-sustaining.

SEC. 4. Section 38225 of the Vehicle Code is amended to read:

38225. (a) A service fee of five dollars ($5) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of six dollars ($6) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device. All fees received by the department pursuant to this subdivision, and all day use, overnight use, or annual or biennial use fees for designated off-highway state recreation areas received by the Office of Off-Highway Motor Vehicle Recreation, shall be deposited in the Off-Highway Vehicle Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, motorcycles, and snowmobiles. All money in the fund is continuously appropriated for expenditures by the office for the purposes specified in Section 8706 of the Public Resources Code.

SEC. 5. Article 10 (commencing with Section 38270) of Chapter 2 of Division 16.5 of the Vehicle Code is repealed.

CHAPTER 847

An act to amend Section 2386 of the Streets and Highways Code and to amend Section 35400 of the Vehicle Code, relating to bicycles.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 2386 of the Streets and Highways Code is amended to read:

2386. The department shall allocate and disburse moneys from the Bikeway Account for projects that serve the functional needs of commuting bicyclists, including, but not limited to, the following:

(a) New bikeways serving major transportation corridors.

(b) New bikeways removing travel barriers to potential bicycle commuters.

(c) Secure bicycle parking at employment centers, park-and-ride lots, and transit terminals.

(d) Bicycle-carrying facilities on public transit vehicles.

(e) Installation of traffic control devices to improve the safety and efficiency of bicycle travel.

(f) The elimination of hazardous conditions on existing bikeways serving a utility purpose.

In selecting projects to be funded, due consideration shall be given to the relative cost-effectiveness of proposed projects. All bikeways projects shall comply with minimum safety design criteria and uniform specifications and symbols for signs, markers, and traffic control devices established by the department.

SEC. 2. Section 35400 of the Vehicle Code is amended to read:

35400. (a) No vehicle shall exceed a length of 40 feet.

(b) This section does not apply to:

(1) A vehicle used in a combination of vehicles when the excess length is caused by auxiliary parts, equipment, or machinery not used as space to carry any part of the load, except that the combination of vehicles shall not exceed the length provided for combination vehicles.

(2) A vehicle when the excess length is caused by any parts necessary to comply with the fender and mudguard regulations of this code.

(3) An articulated bus, except that such bus shall not exceed a length of 60 feet.

(4) An articulated trolley coach, except that such trolley coach shall not exceed a length of 50 feet.

(5) A semitrailer while being towed by a motortruck or truck tractor, if the distance from the kingpin to the rearmost axle of the semitrailer does not exceed 38 feet; provided, that the semitrailer does not, exclusive of attachments, extend forward of the rear of the cab of the motortruck or truck tractor.

(6) A bus when the excess length is caused by the projection of a front safety bumper or a rear safety bumper, or both. Such safety bumper shall not cause the length of the vehicle to exceed the maximum legal limit by more than one foot in the front and one foot in the rear. For the purposes of this chapter, "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured so that it absorbs energy upon impact.

(7) A bus when the excess length is caused by a device, located in front of the front axle, for lifting wheelchairs into the bus. Such a device shall not cause the length of the bus to be extended by more than 18 inches exclusive of any front safety bumper.

(8) A bus when the excess length is caused by a device attached to the rear of the bus designed and used exclusively for the

transporting of bicycles. Such a device may be up to 10 feet in length, if such device, along with any other device permitted pursuant to this section, does not cause the total length of the bus, including any device, to exceed an overall length of 50 feet.

CHAPTER 848

An act to amend Sections 25163 and 25186 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) Except as otherwise provided in subdivision (b), it is unlawful for any person to carry on, or engage in, the business of hauling hazardous waste, or the hauling of hazardous waste as a part of, or incidental to, any business, unless such person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a hauler who does not hold a valid registration issued by the department. Any registration issued by the department to a hauler of hazardous waste is not transferable from the person to whom it was issued to any other person.

(b) Persons hauling only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or his duly authorized representative pursuant to Chapter 6 (commencing with Section 25000) shall be exempt from the requirements of subdivision (a).

(c) It is unlawful for any person to transport hazardous waste in any truck, trailer, vacuum tank, or cargo tank not inspected by the California Highway Patrol or to transport hazardous waste in any container, other than a container packaged pursuant to Federal Department of Transportation regulations, which has not been inspected by the California Highway Patrol.

SEC. 2. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) Except as otherwise provided in subdivision (b), it is unlawful for any person to carry on, or engage in, the business of hauling hazardous waste, or the hauling of hazardous waste as a part of, or incidental to, any business, unless such person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a hauler who

does not hold a valid registration issued by the department. Any registration issued by the department to a hauler of hazardous waste is not transferable from the person to whom it was issued to any other person.

(b) Persons hauling only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or his duly authorized representative pursuant to Chapter 6 (commencing with Section 25000) shall be exempt from the requirements of subdivision (a).

(c) Any person registered as a hazardous waste hauler pursuant to subdivision (a) shall not be subject to the registration requirements of Chapter 6 (commencing with Section 25000) of the Health and Safety Code, but shall comply with the terms, conditions, orders, and directions as the health officer or his or her duly authorized representative may deem necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city, county, or city and county in which the registered hazardous waste hauler will be conducting the activities described in Section 25001.

(d) It is unlawful for any person to transport hazardous waste in any truck, trailer, semitrailer, vacuum tank, or cargo tank not inspected by the California Highway Patrol or to transport hazardous waste in any container, other than a container packaged pursuant to Federal Department of Transportation regulations, which has not been inspected by the California Highway Patrol.

SEC. 3. Section 25186 of the Health and Safety Code is amended to read:

25186. (a) The director, after a public hearing, may suspend or revoke any registration or permit issued pursuant to the provisions of this chapter based on any of the following:

(1) A violation of any provision of this chapter or any applicable requirement promulgated by the department pursuant to this chapter.

(2) The aiding or abetting the violation of any provision of this chapter or any requirement promulgated by the department pursuant to this chapter.

(3) An act or omission associated with the transportation of hazardous wastes that could cause or allow hazard to public health or safety, domestic livestock, or wildlife.

(4) The misrepresentation or omission of a significant fact either in the application for the registration or in information subsequently reported to the department.

(5) Noncompliance with an order issued by the director.

(b) In addition to the remedies provided in Section 25168.2, the director may temporarily suspend any certification of a truck, trailer, vacuum tank, cargo tank, or other container used to transport hazardous waste and may suspend the registration of a hazardous waste hauler issued pursuant to the provisions of this chapter prior to any hearing when, in the director's opinion, such action is necessary to prevent an imminent and substantial danger to health or the environment. The director shall notify the holder of the certification or registration of the temporary suspension and the effective date thereof and at the same time shall serve such person with an accusation. Upon receipt of a notice of defense to the accusation, the director shall set the matter for a hearing which shall be held as soon as possible but not later than 10 days after receipt of such notice of defense. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the merits, which in any event shall be made within 10 days after the completion of the hearing. If such determination is not transmitted within 10 days after the hearing is completed, the temporary suspension shall be of no further effect.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1918 are both chaptered and become effective January 1, 1981, both bills amend Section 25163 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1918, that the amendments to Section 25163 proposed by both bills be given effect and incorporated in Section 25163 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill 1918 are both chaptered and become effective January 1, 1981, both amend Section 25163 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1918, in which case Section 1 of this act shall not become operative.

CHAPTER 849

An act to amend Section 6355 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 6355 of the Revenue and Taxation Code is amended to read:

6355. (a) There are exempted from the taxes imposed by this part the gross receipts from the sales in bulk of monetized bullion which are substantially equivalent to transactions in securities or commodities through a national securities or commodities exchange

and the storage, use or other consumption in this state of monetized bullion so sold.

(b) A sale in bulk, for purposes of this section, shall be deemed to have occurred if the amount of monetized bullion sold in the transaction totals, in face amount, the sum of one thousand dollars ($1,000) or more, or its equivalent.

(c) "Monetized bullion," for purposes of this section, means coins or other forms of money manufactured of gold, silver, or other metal and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation.

(d) A sale of monetized bullion, for purposes of this section, shall be deemed to be substantially equivalent to a transaction in securities or commodities through a national securities or commodities exchange, if the sale is by or through a person registered pursuant to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not required to be registered under the Commodity Exchange Act.

(e) This section shall be deemed declaratory of existing law and not amendatory thereof.

SEC. 2. The provisions of this act shall apply to all sales in bulk of monetized bullion occurring on and after January 1, 1980.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Chapter 452 of the Statutes of 1979 repealed the California Commodity Law and became effective January 1, 1980. In order to conform the provisions of this act to Chapter 452 of the Statutes of 1979, it is necessary for this act to take effect immediately.

CHAPTER 850

An act to amend Sections 6453, 6510, and 10666 of, and to amend and repeal Sections 6481, 6651, 7852, 7890, 7921, 8042, 8044, 8045, and 8254 of, the Fish and Game Code, relating to aquatic resources, and making an appropriation therefor.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 6453 of the Fish and Game Code is amended to read:

6453. The fee for a domesticated fish breeder's license shall be thirty dollars ($30) per calendar year or part thereof.

SEC. 1.5. Section 6481 of the Fish and Game Code, as amended by Section 1.5 of Chapter 443 of the Statutes of 1978, is amended to

read:

6481. A license granting the privilege to cultivate marine life shall be issued upon application and the payment of a fee of thirty dollars ($30) to the department. The license shall be valid for a term of one year from July 1, or if issued thereafter for the remaining portion of the term.

SEC. 2. Section 6481 of the Fish and Game Code, as added by Section 2 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 3. Section 6510 of the Fish and Game Code is amended to read:

6510. Every person shall procure a license to engage in the business of cultivating oysters, except a person licensed pursuant to Article 4 (commencing with Section 6480), whether planting, promoting their growth, or harvesting them, in, on, or from waters and areas of this state, whether public or private.

The department shall prepare a suitable license entitling the holder to cultivate oysters, subject to the provisions of this code, for a term of one year from July 1st or, if issued after the beginning of such term, for the remainder thereof.

The fee for the license is thirty dollars ($30).

Any person engaged solely in the cultivation of oysters and the sale of cultivated oysters, who is not otherwise a person described in Section 8040, need not procure the license required by that section.

SEC. 4. Section 6651 of the Fish and Game Code, as amended by Section 3 of Chapter 443 of the Statutes of 1978, is amended to read:

6651. A license granting the privilege to harvest kelp or other aquatic plants shall be issued and delivered upon application and the payment of a fee of fifteen dollars ($15) to the department. The license shall be valid for a term of one year from the date of issuance.

SEC. 5. Section 6651 of the Fish and Game Code, as added by Section 4 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 6. Section 7852 of the Fish and Game Code, as amended by Section 5 of Chapter 443 of the Statutes of 1978, is amended to read:

7852. A commercial fishing license entitles the holder to take fish from April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof. The license fee is forty dollars ($40).

SEC. 7. Section 7852 of the Fish and Game Code, as added by Section 6 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 8. Section 7890 of the Fish and Game Code, as amended by Section 7 of Chapter 443 of the Statutes of 1978, is amended to read:

7890. Upon payment of a fee of one hundred twenty-five dollars ($125) and filing of the required statement by the owner or operator of the vessel, the department shall issue a certificate of boat registration which is valid for the period April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof. This certificate shall be carried aboard the vessel at all times posted in a conspicuous place.

SEC. 9. Section 7890 of the Fish and Game Code, as added by

Section 8 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 10. Section 7921 of the Fish and Game Code, as amended by Section 11 of Chapter 443 of the Statutes of 1978, is amended to read:

7921. The license shall be valid during the period from April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof, and for a fee of forty dollars ($40) shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7890.

SEC. 11. Section 7921 of the Fish and Game Code, as added by Section 12 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 12. Section 8042 of the Fish and Game Code, as amended by Section 13 of Chapter 443 of the Statutes of 1978, is amended to read:

8042. The annual fees for licenses issued pursuant to this article are:

(a) For a fish canners and processors license issued to any person engaged in canning fish, except frozen or coldpack crustaceans, or manufacturing fish scraps, fishmeal, fish oil, chickenfeed, fertilizer, or other products from fish or fish offal, one hundred ninety dollars ($190).

(b) For a wholesale fish dealers and preservers license issued to any person preserving fish by the common methods of freezing, coldpacking, drying, salting, pickling, or smoking, or dealing by wholesale in fish taken from the waters of this state or brought into this state in a fresh condition, sixty-five dollars ($65).

Any person engaged in activities covered by both subdivision (a) and subdivision (b) is required to hold only the license designated in subdivision (a).

SEC. 13. Section 8042 of the Fish and Game Code, as added by Section 14 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 14. Section 8044 of the Fish and Game Code, as amended by Section 15 of Chapter 443 of the Statutes of 1978, is amended to read:

8044. Notwithstanding the other provisions of this article, every broker or importer of fish, mollusks or crustaceans who (a) sells to other brokers, importers or wholesalers only, (b) who buys from other brokers, importers or wholesalers only, (c) who does not receive fish from fishermen except fishermen who are also wholesalers, and (d) who is not required by Section 8045 or 8046 to pay a privilege tax, shall procure a fish broker and importer's license for each place of business.

Any person qualifying under the provisions of this section may procure a fish broker and importer's license in lieu of a license under Section 8040 and, upon doing so, shall not be required to comply with the provisions of Sections 8045 and 8046.

The annual fee for the license issued pursuant to this section is one hundred twenty-five dollars ($125). The license year shall be from July 1 to June 30 of the year following, or, if issued after the beginning of such term, for the remainder thereof.

SEC. 15. Section 8044 of the Fish and Game Code, as added by Section 16 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 16. Section 8045 of the Fish and Game Code, as amended by Section 2 of Chapter 877 of the Statutes of 1979, is amended to read:

8045. Every person operating under a license issued pursuant to this article, in addition to the license fee, and a fisherman as described in Section 8015 who sells fish, mollusks, or crustaceans in any load or lot of 100 pounds or more to persons not licensed pursuant to Section 8040, shall pay a privilege tax for each pound, or fraction thereof, of fish purchased, received, or taken by him in accordance with the following schedule:

	Rate per pound
(a) All fish, irrespective of use, except as otherwise specified in this section	$0.0013
(b) Mollusks and crustaceans irrespective of use, excluding squid, crab and abalone	0.0125
(c) Crab and squid, irrespective of use	0.0019
(d) Salmon, except imported salmon offal, based on the weight in the round, irrespective of use	0.0500
(e) Sardines and abalone, irrespective of use	0.0063
(f) The following fish when used for bait or human consumption, except canning	0.0125
(1) Albacore	
(2) Barracuda	
(3) Bluefin	
(4) Broadbill swordfish	
(5) Flying fish	
(6) Frogs	
(7) Giant sea bass	
(8) Halibut	
(9) Saltwater worms	
(10) White sea bass	
(11) Yellowtail	
(g) Anchovy	0.0006

Provided, however, that when the price paid as stated on the fish receipt required in accordance with Section 8011 is in excess of fifty dollars ($50) per ton, the tax on anchovy shall be $0.0013 per pound.

All fish, except shrimp (Pandalus jordani) and crab (Cancer magister), imported into California from another state or country, and which are for human consumption and are not thereafter canned or cooked by a licensee, shall not be subject to such a privilege tax.

Shrimp (Pandalus jordani) and crab (Cancer magister) imported into California from another state or country, irrespective of use, shall not be subject to such privilege tax.

SEC. 17. Section 8045 of the Fish and Game Code, as amended by Section 3 of Chapter 877 of the Statutes of 1979, is repealed.

SEC. 18. Section 8254 of the Fish and Game Code, as amended by

Section 19 of Chapter 443 of the Statutes of 1978, is amended to read.

8254. Lobsters may not be taken for commercial purposes except in Districts 18, 19, 20A and that part of District 20 southerly of Santa Catalina Island between Southeast Rock and China Point under a revocable, nontransferable permit subject to such regulations as the commission shall prescribe.

Every person who takes, assists in taking, possesses or transports lobsters while on any boat, barge or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line or other appliance to take lobsters, must have a valid lobster permit issued to him and must be in possession of said permit while engaged in any of such activities.

Such permits may be issued annually by the department and shall be for the period of the commercial lobster season. The permit fee is one hundred twenty-five dollars ($125). However, any person who has had such a permit revoked may be required by the commission to appear before it and no new permit may be issued to such person unless the commission finds that such issuance will be in the best interests of lobster fishing.

The department shall file an annual report with the Legislature not later than the fifth calendar day of each session of the Legislature on the use made of the revenue received in accordance with the provisions of this section.

SEC. 19. Section 8254 of the Fish and Game Code, as added by Section 20 of Chapter 443 of the Statutes of 1978, is repealed.

SEC. 20. Section 10666 of the Fish and Game Code is amended to read:

10666. In the James V. Fitzgerald Marine Reserve, the following fish and mollusks may be taken under the authority of a sport fishing license as authorized by this code: abalone, rockfish (Sebastes), lingcod, surfperch (Embiotocidae), monkeyface eel, rock eel, white croaker, halibut, cabezon (Scorpaenichthys marmoratus), kelp greenling (Hexagrammos decagrammus), sea urchins (Strongylocentrotus sp.), rock crab (Cancer anthonyi, C. antennarius, C. productus), and smelt (Osmeridae and Antherinidae). No such fish having fins may be taken except by hook and line or by spearfishing. All other fish and forms of aquatic life are protected and may not be taken without a written permit from the department.

CHAPTER 851

An act to amend Section 81383 of the Education Code, relating to education.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 81383 of the Education Code is amended to read:

81383. (a) It is the intent of the Legislature that community college districts be authorized under specified procedures to make vacant classrooms in operating schools available for rent or lease to other community college districts, educational agencies, governmental units, nonprofit organizations, community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses and individuals. This will place students in close relationship to the world of work, thus facilitating career education opportunities.

(b) It is the intent of the Legislature that priority in leasing or renting vacant classroom space be given to educational agencies, particularly those conducting special education programs.

It is the intent of the Legislature that such procedures provide for community involvement by attendance area and at the district level. This community involvement should facilitate making the best possible judgments about the use of excess school facilities in each individual situation.

It is the intent of the Legislature to have the community involved before decisions are made about school closure or the use of surplus space, thus avoiding community conflict and assuring building use that is compatible with the community's needs and desires.

(c) The governing board of any district may, and the governing board of each district, prior to the sale, lease, or rental of any excess real property, except rentals not exceeding 30 days, shall, appoint a district advisory committee to advise the governing board in the development of districtwide policies and procedures governing the use or disposition of community college buildings or space in community college buildings which is not needed for community college purposes.

(d) A district advisory committee shall consist of not less than seven members, and shall be representative of the following:

1. The ethnic, age group and socioeconomic composition of the district.

2. The business community, such as store owners, managers or supervisors.

3. Landowners and renters.

4. Instructors, administrators, and classified school employees.

5. Persons with expertise in environmental impact, legal contracts, building codes, and land use planning.

6. Community college students.

(e) The district advisory committee shall:

1. Review the projected enrollment and other data as provided by

the district to determine the amount of surplus space.

2. Establish a priority list of use of surplus space that will be acceptable to the community.

3. Cause to have circulated throughout the attendance area a priority list of surplus space and provide for hearings of community input to the committee on acceptable uses of space.

4. Make a final determination of limits of tolerance for use of space.

5. Forward to the district governing board a report recommending uses of surplus space.

(f) An existing district advisory committee having the representation specified in subdivision (c), may be designated as the district advisory committee for the purposes of this section.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 852

An act to amend Sections 3710, 3710.2, 3711, 3712, 3713, 3714, 3715, 3716, 3716.1, 3716.2, 3717, 3719, 3720, 3726 and 3727 of, to amend and renumber the headings of Article 2 (commencing with Section 3750) and Article 3 (commencing with Section 3800) of Chapter 4 of Part 1 of Division 4 of, to add an article heading immediately preceding Section 3710 of, to add Sections 3727.1, 3730, and 3731 to, to repeal and add Sections 3710.1, 3722, and 3725 of, and to repeal Section 3723 of, the Labor Code, relating to workers' compensation.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980]

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

SECTION 1. An article heading is added immediately preceding Section 3710 of the Labor Code, to read:

Article 2. Uninsured Employers Fund

SEC. 2. Section 3710 of the Labor Code is amended to read:

3710. (a) The Director of Industrial Relations shall enforce the provisions of this article. The director may employ necessary investigators, clerks, and other employees, and make use of the services of any employee of the department whom he may assign to assist him in the enforcement of this article. Prosecutions for criminal violations of this division may be conducted by the appropriate

public official of the county in which the offense is committed, by the Attorney General, or by any attorney in the civil service of the Department of Industrial Relations designated by the director for such purpose.

(b) The director, in accordance with the provisions of Chapter 4 (commencing at Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt, amend and repeal such rules and regulations as are reasonably necessary for the purpose of enforcing and administering this article and as are not inconsistent with law.

(c) As used in this article, "director" means the Director of Industrial Relations or the director's designated agents.

SEC. 3. Section 3710.1 of the Labor Code is repealed.

SEC. 4. Section 3710.1 is added to the Labor Code, to read:

3710.1. Where an employer has failed to secure the payment of compensation as required by Section 3700, the director shall issue and serve on such employer a stop order prohibiting the use of employee labor by such employer until the employer's compliance with the provisions of Section 3700. Such stop order shall become effective immediately upon service. Any employee so affected by such work stoppage shall be paid by the employer for such time lost, not exceeding 10 days, pending compliance by the employer. Such employer may protest the stop order by making and filing with the director a written request for a hearing within 20 days after service of such stop order. Such hearing shall be held within 5 days from the date of filing such request. The director shall notify the employer of the time and place of the hearing by mail. At the conclusion of the hearing the stop order shall be immediately affirmed or dismissed, and within 24 hours thereafter the director shall issue and serve on all parties to the hearing by registered or certified mail a written notice of findings and findings. A writ of mandate may be taken from the findings to the appropriate superior court. Such writ must be taken within 45 days after the mailing of the notice of findings and findings.

SEC. 5. Section 3710.2 of the Labor Code is amended to read:

3710.2. Failure of an employer, officer, or anyone having direction, management, or control of any place of employment or of employees to observe a stop order issued and served upon him or her pursuant to Section 3710.1 is a misdemeanor punishable by imprisonment in the county jail not exceeding 60 days or by a fine not exceeding one thousand dollars ($1,000), or both. Fines shall be paid into the State Treasury to the credit of the Uninsured Employers Fund. The director may also obtain injunctive and other relief from the courts to carry out the purposes of Section 3710.1.

SEC. 6. Section 3711 of the Labor Code is amended to read:

3711. The director may, at any time, require any employer to furnish a written statement showing the name of his insurer or the manner in which the employer has complied with the provisions of Section 3700. Failure of the employer for a period of 10 days to furnish such written statement is prima facie evidence that he has

failed or neglected in respect to the matters so required. The 10-day period shall not be construed to allow an uninsured employer, so found by the director, any extension of time from the application of the provisions of Section 3710.1. An insured employer who fails to respond to an inquiry respecting his status as to his workers' compensation security shall be assessed and required to pay a penalty of fifty dollars ($50) to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund. In any prosecution under this article, the burden of proof is upon the defendant to show that he has secured the payment of compensation in one of the two ways set forth in Section 3700.

SEC. 7. Section 3712 of the Labor Code is amended to read:

3712. The securing of the payment of compensation in a way provided in this division is essential to the functioning of the expressly declared social public policy of this state in the matter of workers' compensation; and the conduct or operation of any business or undertaking without full compensation security, in continuing violation of such social policy, shall be subject to imposition of business strictures and monetary penalties by the director, including, but not limited to, resort to the superior court of any county in which all or some part of such business is being thus unlawfully conducted or operated, for carrying out the intent of this article. In a proceeding before the superior court in matters concerned with this article, no filing fee shall be charged to the plaintiff; nor may any charge or cost be imposed for any act or service required of or done by any state or county officer or employee in connection with such proceeding. No bond shall be required as a prerequisite to the granting of a restraining order. If the court or the judge before whom the order to show cause in such proceeding shall be made returnable, shall find that the defendant is conducting or operating a business or undertaking without the full compensation security required, he shall forthwith, and without continuance, issue an order restraining the future or further conduct and operation of such business or undertaking so long as such violation of social public policy shall continue. Such action shall be prosecuted by the Attorney General of California, the district attorney of the county in which suit is brought, the city attorney of any city in which such a business or undertaking is being operated or conducted without full compensation security, or any attorney possessing civil service status who is an employee of the Department of Industrial Relations who may be designated by the director for such purpose. No finding made in the course of any such action shall be binding on the appeals board in any subsequent proceeding before it for benefits under this division.

SEC. 8. Section 3713 of the Labor Code is amended to read:

3713. (a) Every employer subject to the compensation provisions of this code shall post and keep posted in a conspicuous location frequented by employees and where such notice may be easily read by employees during the course of the workday, a notice

which shall state the name of the current compensation insurance carrier of such employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment.

(b) Failure to keep any notice required by this section conspicuously posted shall constitute a misdemeanor, and shall be prima facie evidence of noninsurance.

(c) This section shall not apply with respect to the employment of employees as defined in subdivision (d) of Section 3351.

SEC. 9. Section 3714 of the Labor Code is amended to read:

3714. Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall give every new employee, either at the time the employee is hired or by the end of his first pay period, written notice of the employee's right to receive workers' compensation benefits should he be injured on the job at any time while in the employer's employ. The information required by this section shall be in addition to the requirements of Section 3713.

SEC. 10. Section 3715 of the Labor Code is amended to read:

3715. (a) Any employee, except an employee as defined in subdivision (d) of Section 3351, whose employer has failed to secure the payment of compensation as required by this division, or his dependents in case death has ensued, may, in lieu of proceedings against his employer by civil action in the courts as provided in Section 3706, file his application with the appeals board for compensation and the appeals board shall hear and determine such application for compensation in like manner as in other claims and shall make such award to such claimant as he would be entitled to receive if such employer had secured the payment of compensation as required, and such employer shall pay such award in the manner and amount fixed thereby or shall furnish to the appeals board a bond, in such an amount and with such sureties as the appeals board requires, to pay such employee such award in the manner and amount fixed thereby.

(b) Notwithstanding this section or any other provision of this chapter except Section 3708, any person described in subdivision (d) of Section 3351 who is (i) engaged in household domestic service who is employed by one employer for over 52 hours per week, (ii) engaged as a part-time gardener in connection with a private dwelling, if the number of hours devoted to such gardening work for any individual regularly exceeds 44 hours per month, or (iii) engaged in casual employment where the work contemplated is to be completed in not less than 10 working days, without regard to the number of men employed, and where the total labor cost of such work is not less than one hundred dollars ($100) (which amount shall not include charges other than for personal services), shall be entitled, in lieu of proceedings against his employer by civil action in the courts as provided in Section 3706, to file his application with the appeals board for compensation The appeals board shall hear and determine such application for compensation in like manner as

in other claims, and shall make such award to such claimant as he would be entitled to receive if such person's employer had secured the payment of compensation as required, and such employer shall pay such award in the manner and amount fixed thereby, or shall furnish to the appeals board a bond, in such an amount and with such sureties as the appeals board requires, to pay such employee such award in the manner and amount fixed thereby.

It is the intent of the Legislature that the provisions of this bill make no change in the law as it applied to those types of employees covered by this subdivision prior to the effective date of Chapter 1263 of the 1975 Regular Session.

SEC. 10.5. Section 3715 of the Labor Code is amended to read:

3715. (a) Any employee, except an employee as defined in subdivision (d) of Section 3351, whose employer has failed to secure the payment of compensation as required by this division, or his dependents in case death has ensued, may, in addition to proceeding against his employer by civil action in the courts as provided in Section 3706, file his application with the appeals board for compensation and the appeals board shall hear and determine such application for compensation in like manner as in other claims and shall make such award to such claimant as he would be entitled to receive if such employer had secured the payment of compensation as required, and such employer shall pay such award in the manner and amount fixed thereby or shall furnish to the appeals board a bond, in such an amount and with such sureties as the appeals board requires, to pay such employee such award in the manner and amount fixed thereby.

(b) Notwithstanding this section or any other provision of this chapter except Section 3708, any person described in subdivision (d) of Section 3351 who is (i) engaged in household domestic service who is employed by one employer for over 52 hours per week, (ii) engaged as a part-time gardener in connection with a private dwelling, if the number of hours devoted to such gardening work for any individual regularly exceeds 44 hours per month, or (iii) engaged in casual employment where the work contemplated is to be completed in not less than 10 working days, without regard to the number of men employed, and where the total labor cost of such work is not less than one hundred dollars ($100) (which amount shall not include charges other than for personal services), shall be entitled, in addition to proceeding against his employer by civil action in the courts as provided in Section 3706, to file his application with the appeals board for compensation. The appeals board shall hear and determine such application for compensation in like manner as in other claims, and shall make such award to such claimant as he would be entitled to receive if such person's employer had secured the payment of compensation as required, and such employer shall pay such award in the manner and amount fixed thereby, or shall furnish to the appeals board a bond, in such an amount and with such sureties as the appeals board requires, to pay

such employee such award in the manner and amount fixed thereby.

It is the intent of the Legislature that the provisions of this bill make no change in the law as it applied to those types of employees covered by this subdivision prior to the effective date of Chapter 1263 of the 1975 Regular Session.

SEC. 11. Section 3716 of the Labor Code is amended to read:

3716. If the employer fails to pay the compensation required by Section 3715 to the person entitled thereto, or fails to furnish the bond required by Section 3715 within a period of 10 days after notification of such award, the award, upon application by the person entitled thereto, shall be paid by the director from the Uninsured Employers Fund, which fund is hereby created in the State Treasury. The money in the Uninsured Employers Fund is hereby continuously appropriated for this purpose and to pay the expenses of the director in administering these provisions. Refunds may be paid from the Uninsured Employers Fund for amounts remitted erroneously to the fund, or the director may authorize offsetting subsequent remittances to the fund.

SEC. 12. Section 3716.1 of the Labor Code is amended to read:

3716.1. In any hearing, investigation, or proceeding, the Attorney General, or, with the Attorney General's permission, attorneys of the Department of Industrial Relations, shall represent the director and the state. Expenses incident to representation of the director and the state, before the appeals board and in civil court, by the Attorney General or Department of Industrial Relations attorneys, shall be reimbursed from funds appropriated to the Uninsured Employers Fund; however, the injured claimant shall have first priority to be paid from such funds.

The director shall assign investigative and claims' adjustment services respecting matters concerning uninsured employers injury cases. The director or his representative may make such service assignments within the department, or he may contract therefor with the State Compensation Insurance Fund, except insofar as such matters might conflict with the interests of the State Compensation Insurance Fund. The costs thereof shall be reimbursed from funds appropriated to the Uninsured Employers Fund.

SEC. 13. Section 3716.2 of the Labor Code is amended to read:

3716.2. Notwithstanding the precise elements of an award of compensation benefits, and notwithstanding the claim and demand for payment being made therefor to the director, the director, as administrator of the Uninsured Employers Fund, shall pay the claimant only such benefits allowed, recognizing proper liens thereon, that would have accrued against an employer properly insured for workers' compensation liability. However, in civil suits by the director to enforce payment of an award, including procedures pursuant to Section 3717, the total amount of the award, including interest, other penalties and attorney fees granted by the award, shall be sought. Recovery, by the director, in a civil suit, or other means, of awarded benefits in excess of amounts paid the claimant by the

Uninsured Employers Fund, shall be paid over to the injured employee, or his representative as the case may be.

SEC. 13.5. Section 3717 of the Labor Code is amended to read:

3717. A findings and award which is the subject of a demand on the Uninsured Employers Fund, shall constitute a liquidated claim for damages against an employer in the amount so ascertained and fixed by the appeals board, and the appeals board shall certify the same to the director who shall forthwith refer the matter to the Attorney General, to institute a civil action against such employer in the name of the director, as administrator of the Uninsured Employers Fund, for the collection of such award. In such action it shall be sufficient for plaintiff to set forth a copy of the record of proceedings of the appeals board relative to such claims as certified by the appeals board to the director and to state that there is due to plaintiff on account of such finding and award of the appeals board a specified sum which plaintiff claims with interest. Plaintiff shall be further entitled to costs and reasonable attorney fees. A certified copy of such record of proceedings in such claim shall be attached to the complaint and constitutes prima facie evidence of the truth of the facts therein contained. The answer or demurrer to such complaint shall be filed within 10 days, the reply or demurrer to the answer within 20 days, and the demurrer to the reply within 30 days after the return day of the summons or service by publication. All motions and demurrer shall be submitted to the court within 10 days after the same are filed. As soon as the issues are made up in any such case, it shall be placed at the head of the trial docket and shall be first in order for trial.

Nothing in this chapter shall be construed to preclude informal adjustment by the director of a claim for compensation benefits before the issuance of findings and award wherever it appears to the director that the employer is uninsured and that informal adjustment will facilitate the expeditious delivery of compensation benefits to the injured employee.

SEC. 14. Section 3719 of the Labor Code is amended to read:

3719. Any suit, action, proceeding, or award brought or made against any employer under Section 3717 may be compromised by the director, or such suit, action, or proceeding may be prosecuted to final judgment as in the discretion of the director may best subserve the interests of the Uninsured Employers Fund.

SEC. 15. Section 3720 of the Labor Code is amended to read:

3720. When the appeals board or the director determines under Section 3715 or 3716 that an employer has not secured the payment of compensation as required by this division, the director may file for record in the office of the county recorder in the counties where such employer's property is located, a certificate prepared and furnished him by the appeals board showing the date that the employer was determined to be illegally uninsured. Such certificate shall show the name and address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation

as required by this division. Upon such recordation, such certificate constitutes a valid lien in favor of the director, and shall have the same force, effect and priority as a judgment lien and shall continue for 10 years from the time of the recording of such certificate unless sooner released or otherwise discharged. A copy of such a certificate shall be served upon the employer by mail, by the director. A facsimile signature of the director accompanied by the seal imprint of the Department of Industrial Relations shall be sufficient for recording purposes of liens and releases or cancellations thereof considered herein. Certificates of liens may be filed in any or all counties of the state, depending upon the information the director obtains concerning the employer's assets.

SEC. 16. Section 3722 of the Labor Code is repealed.

SEC. 17. Section 3722 is added to the Labor Code, to read:

3722. (a) At the time the stop order is issued and served pursuant to Section 3710.1, the director shall also issue and serve a penalty assessment order requiring the uninsured employer to pay to the director, for deposit in the State Treasury to the credit of the Uninsured Employers Fund, the sum of one hundred dollars ($100) per employee employed at the time such order is issued and served, as an additional penalty for being uninsured at such time.

(b) If upon the filing of a claim for compensation under this division the Workers' Compensation Appeals Board finds that any employer has not secured the payment of compensation as required by this division and finds the claim either noncompensable or compensable, the appeals board shall mail a copy of their findings to the uninsured employer and the director, together with a direction to the uninsured employer to file a verified statement pursuant to subdivision (c).

After the time for any appeal has expired and the adjudication of the claim has become final, the uninsured employer shall be assessed and pay as a penalty either of the following:

(1) In noncompensable cases, one hundred dollars ($100) per each employee employed at the time of the claimed injury.

(2) In compensable cases, five hundred dollars ($500) per each employee employed on the date of the injury.

(c) In order to establish the number of employees the uninsured employer had on the date of the claimed injury in noncompensable cases and on the date of injury in compensable cases, the employer shall submit to the director within 10 days after service of findings, awards and orders of the Workers' Compensation Appeals Board a verified statement of the number of employees in his employ on the date of injury. If the employer fails to submit to the director such a verified statement or if the director disputes the accuracy of the number of employees reported by the employer, the director shall use such information regarding the number of employees as the director may have or otherwise obtains.

(d) The maximum amount of penalties which may be assessed pursuant to this section is ten thousand dollars ($10,000). Payment

shall be transmitted to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund.

(e) The Workers' Compensation Appeals Board may provide for a summary hearing on the sole issue of compensation coverage to effect the provisions of this section.

SEC. 18. Section 3723 of the Labor Code is repealed.

SEC. 19. Section 3725 of the Labor Code is repealed.

SEC. 20. Section 3725 is added to the Labor Code, to read:

3725. If an employer desires to contest a penalty assessment order, the employer shall file with the director a written request for a hearing within 20 days after service of such order. Upon receipt of such request, the director shall set the matter for a hearing within a reasonable time thereafter and shall notify the employer of the time and place of the hearing by mail at least 10 days prior to the date of the hearing. The decision of the director shall consist of a notice of findings and findings which shall be served on all parties to the hearing by registered or certified mail within 15 days after the hearing. Any amount found due by the director as a result of a hearing shall become due and payble 10 days after notice of the findings and written findings have been mailed by registered or certified mail to the party assessed. A writ of mandate may be taken from any such findings to the appropriate superior court upon the execution by the party assessed of a bond to the state in double the amount found due and ordered paid by the director, conditioned that the party will pay any judgment and costs rendered against it for the assessment. Such writ must be taken within 45 days after mailing the notice of findings and findings.

SEC. 21. Section 3726 of the Labor Code is amended to read:

3726. (a) When no petition objecting to a penalty assessment order is filed, a certified copy of the order may be filed by the director in the office of the clerk of the superior court in any county in which the employer has property or in which the employer has or had a place of business. The clerk, immediately upon such filing, shall enter judgment for the state against the employer in the amount shown on the penalty assessment order.

(b) When findings are made affirming or modifying a penalty assessment order after hearing, a certified copy of such order and a certified copy of such findings may be filed by the director in the office of the clerk of the superior court in any county in which the employer has property or in which the employer has or had a place of business. The clerk, immediately upon such filing, shall enter judgment for the state against the employer in the amount shown on the penalty assessment order or in the amount shown in the findings if the order has been modified.

(c) A judgment entered pursuant to the provisions of this section may be filed by the clerk in a looseleaf book entitled "Special Judgments for State Uninsured Employers Fund." Such judgment shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by law

on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him.

SEC. 22. Section 3727 of the Labor Code is amended to read:

3727. If the director determines pursuant to Section 3722 that an employer has failed to secure the payment of compensation as required by this division, the director may file with the county recorder of any counties in which such employer's property may be located his certificate of the amount of penalty due from such employer and such amount shall be a lien in favor of the director from the date of such filing against the real property and personal property of the employer within the county in which such certificate is filed. The recorder shall accept and file such certificate and record the same as a mortgage on real estate and shall file the same as a security interest and he shall index the same as mortgage on real estate and as a security interest. Certificates of liens may be filed in any and all counties of the state, depending upon the information the director obtains concerning the employer's assets. The recorder shall make no charge for the services provided by this section to be performed by him. Upon payment of the penalty assessment, the director shall issue a certificate of cancellation of penalty assessment, which may be recorded by the employer at his expense.

SEC. 23. Section 3727.1 is added to the Labor Code, to read:

3727.1. The director may withdraw a stop order or a penalty assessment order where investigation reveals the employer had secured the payment of compensation as required by Section 3700 on the date and at the time of service of such order. The director also may withdraw a penalty assessment order where investigation discloses that the employer was insured on the date and at the time of an injury or claimed injury, or where an insured employer responded in writing to a request to furnish the status of his workers' compensation coverage within the time prescribed.

SEC. 24. Section 3730 is added to the Labor Code, to read:

3730. When the last day for filing any instrument or other document pursuant to this chapter falls upon a Saturday, Sunday or other holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

SEC. 25. Section 3731 is added to the Labor Code, to read:

3731. Any stop order or penalty assessment order may be personally served upon the employer either by (1) manual delivery of the order to the employer personally or by (2) leaving signed copies of the order during usual office hours with the person who is apparently in charge of the office and by thereafter mailing copies of the order by first class mail, postage prepaid to the employer at the place where signed copies of the order were left.

SEC. 26. The heading of Article 2 (commencing with Section 3750) of Chapter 4 of Part 1 of Division 4 of the Labor Code is amended and renumbered to read:

Article 3. Insurance Rights and Privileges

SEC. 27. The heading of Article 3 (commencing with Section 3800) of Chapter 4 of Part 1 of Division 4 of the Labor Code is amended and renumbered to read:

Article 4. Construction Permit

SEC. 28. It is the intent of the Legislature, if this bill and Senate Bill 1823 are both chaptered and become effective January 1, 1981, both bills amend Section 3715 of the Labor Code, and this bill is chaptered after Senate Bill 1823, that the amendments to Section 3715 proposed by both bills be given effect and incorporated in Section 3715 in the form set forth in Section 10.5 of this act. Therefore, Section 10.5 of this act shall become operative only if this bill and Senate Bill 1823 are both chaptered and become effective January 1, 1981, both amend Section 3715, and this bill is chaptered after Senate Bill 1823, in which case Section 10 of this act shall not become operative.

CHAPTER 853

An act to add Chapter 5 (commencing with Section 11930) to Division 5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Chapter 5 (commencing with Section 11930) is added to Division 5 of the Vehicle Code, to read:

CHAPTER 5. SALE OF HOUSECARS

11930. As used in this chapter:

(a) "First-stage manufacturer" with reference to a housecar means the manufacturer of the engine, chassis, and drive train of the vehicle.

(b) "Second-stage manufacturer" means the installer of the structure and equipment permanently upon the engine, chassis, and drive train of the vehicle rendering the vehicle complete and suitable for human habitation and ready for delivery to the dealer or the buyer.

11931. (a) The dealer shall give the purchaser of a new housecar a list of every express warranty, of which he has notice, that has been issued on the housecar, or a part thereof, by the first-stage manufacturer, the second-stage manufacturer, the dealer, or any

other party. The dealer shall also give the purchaser a copy of each warranty.

(b) The purchaser shall sign the list as an acknowledgment that he has received each warranty listed. The dealer shall sign to signify that all express warranties applicable to the housecar appear on the list. Both the purchaser and the dealer shall retain a copy of the list.

(c) Violation of this section is an infraction.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 854

An act to add and repeal Section 805 of the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Section 805 is added to the Unemployment Insurance Code, to read:

805. (a) Any employing unit described by Section 801, which the department has assessed under Chapter 4 (commencing with Section 901) of this part for unpaid employer contributions, may elect to finance its coverage in a manner provided by Section 803 effective upon the first day of the period for which the assessment was made, in lieu of liability for the amount assessed, if the employing unit meets all of the following conditions:

(1) The employing unit has filed a petition for reassessment or a petition for review of a denial of a claim for refund pursuant to Section 1133 or 1180 for the entire period of the assessment.

(2) The employing unit files a written request for such an election with the director prior to a final administrative decision on the employing unit's petition described in paragraph (1).

(b) If an employing unit makes an election pursuant to subdivision (a), then it shall pay to the department the cost of benefits required by Section 803 from the first day of the period for which the assessment was made. In addition, the employing unit shall pay a penalty of 10 percent of the amount of benefits paid by the

department from the first day of the period for which the assessment was made to the first day of the calendar quarter during which the employing unit files its written request for an election pursuant to this section. The employing unit also shall pay interest on the benefits paid by the department at the rate of 1 percent per month or fraction thereof from the day benefits were paid during the period for which the assessment was made to the first day of the calendar quarter during which the employing unit files its written request for an election pursuant to this section. The amounts to be paid by the employing unit under this subdivision shall be deemed a cost of benefits and billed as such by the department pursuant to Section 803.

(c) An election pursuant to this section shall not affect the right of the employing unit to a final decision on the merits of the petition described in paragraph (1) of subdivision (a). If the employing unit prevails on the merits of its petition, it shall be granted a refund of the cost of benefits and of any penalty and interest paid pursuant to its election under this section.

(d) The election under this section shall continue in effect for not less than two full calendar years from the effective date of the election, but no election shall be terminated before January 1 of the calendar year following the filing with the director of a written request for an election under this section.

(e) This section shall remain in effect only until December 31, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1981, deletes or extends such date.

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

Currently nonprofit organizations may elect to finance unemployment insurance coverage by reimbursing the department for benefits paid to their former employees. If they do not elect, they are tax rated.

Several nonprofit organizations have claimed that they are exempt from unemployment insurance coverage and have appealed from departmental determinations of coverage. During the pendency of these appeals, these organizations have not elected the reimbursement financing method. Others for whom the reimbursable financing method will drastically reduce their unemployment insurance costs, have not been aware that they are now covered by the unemployment insurance program. Therefore, they have not yet elected the reimbursable financing method. If these organizations are not allowed to reimburse benefits for past periods, they will be assessed and will be required to pay taxes which may far exceed the actual amount of unemployment insurance benefits paid to their employees. This act will extend the time period for nonprofit organizations to elect reimbursement financing.

In order to help nonprofit organizations allocate more of their resources toward their stated purpose, it is necessary for this act to take effect immediately.

CHAPTER 855

An act to amend Section 11161.5 of the Penal Code, relating to child abuse.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 11161.5 of the Penal Code is amended to read:

11161.5. (a) In any case in which any person coming within the provisions of subdivision (c) acquires in his or her professional capacity reasonable cause to believe that a minor has physical injury or injuries which appear to have been inflicted upon him or her by other than accidental means by any person, that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor, he or she shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, his or her whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him or her by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon a minor, he or she shall file a report without delay with the local police authority having jurisdiction and with the juvenile probation department as provided in this section.

No person required by this section to make a report shall incur any civil or criminal liability as a result of making such report. No other person making a report of child abuse or molestation shall incur any civil or criminal liability as a result of making the report unless it can be proven that a false report was made and that the person knew or should have known that the report was false.

No person required to make a report pursuant to this section, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected

victim of child abuse, without parental consent, or for disseminating such photographs with the reports required by this section. However, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of such photographs.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon, the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to all of the following: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his or her patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 300 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 272 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) shall be made to the county welfare department.

(c) The provisions of subdivision (a) are applicable to all of the following persons:

(1) Physicians and surgeons.

(2) Dentists and dental hygienists.

(3) Residents and interns.

(4) Podiatrists.

(5) Chiropractors.

(6) Optometrists.

(7) Persons licensed as marriage, family, and child counselors pursuant to Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 of the Business and Professions Code.

(8) Psychologists.

(9) Religious practitioners.

(10) Registered nurses.

(11) Superintendents, supervisors of child welfare and attendance, and certificated pupil personnel employees of any public or private school.

(12) Teachers and principals of any public or private school.

(13) Licensed day care workers.

(14) Administrators of public or private summer day camps or child care centers.

(15) Social workers.

(16) Peace officers.

(17) Probation officers.

(18) Priests, ministers, or rabbis of any religious denomination.

SEC. 2. Section 11161.5 of the Penal Code is amended to read:

11161.5. (a) In any case in which any person coming within the provisions of subdivision (c) acquires in his or her professional capacity reasonable cause to believe that a minor has physical injury or injuries which appear to have been inflicted upon him or her by other than accidental means by any person, that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor, he or she shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, the minor's whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him or her by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon a minor, the director shall file a report without delay with the local police authority having jurisdiction and with the juvenile probation department as provided in this section.

No person required by this section to make a report shall incur any civil or criminal liability as a result of making such report. No other person making a report of a child abuse or molestation shall incur any civil or criminal liability as a result of making the report unless it can be proven that a false report was made and the person knew or should have known that the report was false.

No person required to make a report pursuant to this section, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating such photographs with the reports required by this section. However, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of such photographs.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon, the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to all of the following: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his or her patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) of this section shall be made to the county welfare department.

(c) The provisions of subdivision (a) are applicable to all of the following persons:

(1) Physicians and surgeons.

(2) Dentists and dental hygienists.

(3) Residents and interns.

(4) Podiatrists.

(5) Chiropractors.

(6) Optometrists.

(7) Persons licensed as marriage, family, and child counselors pursuant to Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 of the Business and Professions Code.

(8) Psychologists.

(9) Religious practitioners.

(10) Registered nurses.

(11) Superintendents, supervisors of child welfare and attendance, and certificated pupil personnel employees of any public or private school.

(12) Teachers and principals of any public or private school.

(13) Licensed day care workers.

(14) Administrators of public or private summer day camps or child care centers.

(15) Social workers.

(16) Peace officers.

(17) Probation officers.

(18) Priests, ministers, or rabbis of any religious denomination.

(d) As used in this section, the words "sexual molestation" and "sexually molested" mean rape, incest, or lewd and lascivious acts perfromed on a minor or child. The fact that a minor 14 years of age or older is pregnant or has veneral disease, or is seeking services related to these conditions, does not in and of itself, mean that a child has been molested for purposes of this section.

When a minor under 14 years of age is seeking treatment or services for pregnancy or veneral disease, a report is authorized but not required. However, persons required to report child abuse shall recognize that children under 14 years of age who seek their services need special attention and examination.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 781 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 11161.5 of the Penal Code, and this bill is chaptered after Assembly Bill 781, that Section 11161.5 of the Penal Code, as amended by Section 2 of Assembly Bill 781, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 11161.5 proposed by this bill. Therefore, if this bill and Assembly Bill 781 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 781 is chaptered before this bill and amends Section 11161.5, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 856

An act to amend Section 4453 of, and to add Section 9255.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 4453 of the Vehicle Code is amended to read:

4453. (a) The registration card shall contain upon the face thereof the date issued, the name and residence or business address of the owner and of the legal owner, if any, the registration number assigned to the vehicle, and a description of the vehicle as complete as that required in the application for registration of the vehicle.

(b) A motor vehicle of a type included in this subdivision shall be identified as such on the face of the registration card, whenever the department is able to ascertain such fact, at the time application is made for initial registration or transfer of ownership of the vehicle.

(1) A motor vehicle rebuilt and restored to operation which was previously declared to be a total loss salvage vehicle because the cost of repairs exceeds the retail value of the vehicle.

(2) A motor vehicle rebuilt and restored to operation which was previously reported to be dismantled pursuant to Section 11520.

(3) A motor vehicle previously registered to a law enforcement agency and operated in law enforcement work.

(4) A motor vehicle formerly operated as a taxicab as defined in subdivision (c) of Section 27908.

(c) The director may modify the form, arrangement, and information appearing on the face of the registration card and may provide for standardization and abbreviation of fictitious or firm names thereon whenever he finds that the efficiency of the department will be promoted thereby except that general delivery or post office box numbers shall not be permitted as the address of the registered owner unless there is no other address.

SEC. 2. Section 9255.1 is added to the Vehicle Code, to read:

9255.1. A service fee of two dollars ($2), in addition to other required fees, shall be paid to the department upon the initial issuance of a registration card identifying a motor vehicle of a type included in subdivision (b) of Section 4453. Subsequent transfers of title are exempted from the two-dollar ($2) service fee.

SEC. 3. This act shall become operative on October 1, 1981.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 857

An act to add and repeal Article 5 (commencing with Section 3400) of Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, relating to wildlife, and making an appropriation therefor.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Article 5 (commencing with Section 3400) is added to Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, to read:

Article 5. Wildlife Management on Private Lands

3400. It is the policy of the state to actively encourage the management and utilization of wildlife resources on private landholdings. The commission and department are authorized to develop a program designed to implement this policy.

3401. Notwithstanding any other provision of this code, the commission may authorize the department to license the operation of wildlife management areas on private landholdings after an investigation of the area and a finding by the commission that the issuance of such license will not conflict with the public interest. Any wildlife management area licensed pursuant to this article shall not be available for use by the general public without the consent of the landholder.

3402. A wildlife management license for the management of private landholdings for the propagation, conservation, and utilization of resident wildlife resources may be issued to individual or corporate landholders upon approval by the commission of a license application submitted by the private landholder. The fee for such a license shall be one hundred dollars ($100). Such application shall include a general management plan in addition to the following information:

(a) The name and address of the applicant.

(b) A legal description of the land to be included within the wildlife management area.

(c) An inventory of the wildlife and wildlife habitat in the proposed wildlife management area.

(d) A statement of management objectives.

(e) A description of proposed wildlife management programs, including, but not limited to, habitat development and utilization.

(f) A statement of policies which shall be applied to the operation of the wildlife management area, including related recreational developments which shall be provided and such other information as may be required by the commission.

3403. If an application is approved and a license is issued, the licensee shall post the boundaries of the wildlife management area as prescribed by the commission.

3404. The commission may prescribe additional regulations as it deems necessary. If the licensee violates any of the provisions of this article or any regulation made pursuant thereto, the commission may cancel or revoke the license provided notice has been given to the licensee and he has been given an opportunity to be heard by the commission.

3405. A wildlife management license shall be valid for a term of three years from January 1, 1981, or, if issued after the beginning of such term, for the remainder thereof, such term to expire January 1, 1984.

3406. Upon approval of the general management plan submitted with the license application, the commission may authorize the department to issue a permit to the licensee for the taking of any game bird or mammal in a licensed wildlife management area, pursuant to regulations of the commission. With respect to hunting seasons and bag limits, the regulations shall not differ from those imposed on lands within the immediate surrounding area. Such permit shall be issued for one year, subject to annual renewal upon authorization by the commission.

In addition, the renewal application shall include the following information:

(a) Management activities carried out during the preceding year and their results, including habitat improvement, wildlife population, use, and harvest.

(b) Recommended changes in the general management plan as may be indicated by experience.

(c) Plans for management during the new permit year, including proposed habitat management and harvest.

3407. Any bird or mammal taken on a licensed wildlife management area shall be marked for identification with tags or seals issued by the department prior to being removed from the wildlife management area. Such birds and mammals, properly identified, may be held in possession and transported at any time during the year.

3408. Beginning with the second year after issuance of the license, the commission shall charge an annual permit fee. The commission shall establish annual permit fees and fees for tags and seals in such amounts as are necessary to cover the costs of the program.

3409. Any permit may be revoked upon a finding by the commission that the terms of the permit have not been met, or for the violation of any provision of this code, provided notice has been given to the permittee and he has been given an opportunity to be heard by the commission.

3410. The Legislature intends that the provisions enacted by this article constitute a pilot project, and as such this article shall apply only to the Counties of Monterey, San Luis Obispo, Kern, Kings, and San Benito.

3411. This article shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

CHAPTER 858

An act to repeal and add Article 6 (commencing with Section 72670) to Chapter 6 of Part 45 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of the Education Code is repealed.

SEC. 2. Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 is added to the Education Code, to read:

Article 6. Auxiliary Organizations

72670. As used in this article, "auxiliary organization" includes, but is not limited to, the following entities:

(a) Any entity in which any official of a community college district participates as a director as part of his or her official position.

(b) Any entity formed or operating pursuant to Article 4 (commencing with Section 76060) of Chapter 1 of Part 47.

(c) Any entity which operates a commercial service for the benefit of a community college or district on a campus or other property of the district.

(d) Any entity whose governing instrument provides in substance both of the following:

(1) Its purpose is to promote or assist a community college or district, or to receive gifts, property and funds to be used for the benefit of the community college or district or any person or organization having an official relationship therewith.

(2) Any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of the governing board of the district, an official of the district, or selected, ex officio, from the membership of the student body or the faculty or the governing board or the administrative staff of the district.

(e) Any entity which is designated as an auxiliary organization by the district governing board.

72671. An auxiliary organization may enter into a joint powers agreement with any federal, state, or local governmental entity pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

72672. (a) A certified public accountant shall be selected by each auxiliary organization described in Section 72670. Upon being notified of the certified public accountant selected by an auxiliary organization, the district shall forward the applicable auditing and

reporting procedures to the selected certified public accountant. In accordance with procedures prescribed by the Board of Governors of the California Community Colleges, such certified public accountant shall annually audit any and all community college auxiliary funds. The auxiliary organizations shall contract for and receive such audit annually, and shall submit such audit to the district governing board and to the board of governors. Auxiliary organizations shall annually publish an audited statement of their financial condition which shall be disseminated as widely as feasible and be available to any person on request. When an auxiliary organization primarily serves a single community college of the district, publication in the campus student newspaper shall be deemed compliance with this requirement. When an auxiliary organization serves the district governing board, distribution of the published audited statement of its financial condition at a regularly scheduled meeting of the district governing board shall be deemed compliance with this requirement.

(b) When an auxiliary organization primarily serves a single community college of the district, the president of that community college, and when an auxiliary organization primarily serves a district, the superintendent of the district, shall be responsible for ascertaining that all expenditures are in accordance with policies of the district governing board, the propriety of all expenditures, and the integrity of the financial reporting made by auxiliary organization.

(c) The purposes and operations of an auxiliary organization shall be conducted in conformity with general regulations established by the board of governors and with implementing regulations which shall be established by each district governing board prior to the establishment of an auxiliary organization. The implementing regulations established by a district shall be submitted to, and approved by, the chancellor's office prior to the recognition of an auxiliary organization by that district. At such time as a district may recognize an auxiliary organization, it shall submit a copy of the articles of incorporation, bylaws, or other governing instruments of the auxiliary organization to the chancellor's office. The accounting procedures of such auxiliary organizations shall be comparable to those that govern the auxiliary organizations established under Chapter 7 (commencing with Section 89900) of Part 55. The regulations shall include provisions requiring the governing board of each auxiliary organization to provide salaries, working conditions and benefits for the full-time employees of each auxiliary organization which are comparable to those provided district employees performing similar services; provided, however, that the regulations may permit retirement benefits, or permanent status benefits, or both, to be withheld from temporary and executive employees of each auxiliary organization. For the purposes of this subdivision, a "temporary employee" is (1) an employee employed for a research project, workshop, institute, or other special project

funded by any grant, contract, or gift; or (2) an employee whose contract of employment is for a fixed term not exceeding three years. For the purposes of this subdivision, an "executive employee" is any management employee with responsibility for the development and execution of auxiliary organization policy and includes, but is not limited to, general managers, business managers, directors, and similar positions. For those full-time employees whose duties are not comparable to classes in the district, the salaries established shall be at least equal to the salaries prevailing in other educational institutions in the area or commercial operations of like nature.

(d) Retirement benefits may be provided by other than the Public Employees' Retirement System. A contract for participation in the Public Employees' Retirement System in accordance with the terms and conditions of the public employees' retirement law shall be deemed to satisfy fully the requirements of subdivision (c) with respect to retirement.

Notwithstanding subdivision (c), the regulations established by the district governing board may exempt the board of directors of any newly created auxiliary organization from the requirement of providing retirement benefits for a period not to exceed three years from the date that the auxiliary organization is established.

72673. Student body organizations not formed or operating pursuant to Article 4 (commencing with Section 76060) of Chapter 1 of Part 47; student or faculty societies, social clubs, fraternities, and sororities; and alumni associations shall be exempt from the provisions of this article, unless any such organization, society, club, fraternity, sorority, or association is an auxiliary organization within the meaning of Section 72670.

This section shall not be construed to alter or limit the powers of the district governing board to establish rules and regulations governing organizations which maintain an official relationship with a college or district or which uses the name or facilities of such college or district.

72674. Each auxiliary organization formed pursuant to this article, shall have a board of directors composed, both as to size and categories of membership, in accordance with regulations established by the district governing board.

Each board of directors shall, during each fiscal year, hold at least one business meeting each quarter. The board of directors shall have the benefit of the advice and counsel of at least one attorney admitted to practice law in this state and at least one licensed certified public accountant. Neither the attorney at law nor the certified public accountant need be members of the board of directors.

No auxiliary organization shall accept any grant, contract, bequest, trust, or gift, unless it is so conditioned that it may be used only for purposes consistent with policies of the district governing board.

Each board of directors of an auxiliary organization shall conduct its business in public meetings in accordance with the provisions of

Chapter 9 (commencing with Section 54950) of Part 1 of the Government Code.

72675. The board of directors of an auxiliary organization shall approve all expenditures and fund appropriations. Appropriations of funds for use outside of the normal business operations of the auxiliary organization shall be approved in accordance with district policy and regulations by an officer designated by the district governing board.

The district governing board in consultation with the board of governors and the boards of directors of the various auxiliary organizations described in Section 72673, shall:

(a) Institute a standard systemwide accounting and reporting system for businesslike management of the operation of such auxiliary organizations.

(b) Implement financial standards which will assure the fiscal viability of such various auxiliary organizations. Such standards shall include proper provision for professional management, adequate working capital, adequate reserve funds for current operations and capital replacements, and adequate provisions for new business requirements.

(c) Institute procedures to assure that transactions of the auxiliary organizations are within the educational mission of the district.

(d) Develop policies for the appropriation of funds derived from indirect cost payments not required to implement subdivision (b). Uses of such funds shall be regularly reported to the district governing board.

72676. Operations of commercial services on a campus, such as a food service or bookstore, or such commercial services as may be provided in a student union, shall, when operated by an auxiliary organization, be self-supporting.

Any surplus funds from commercial operations shall be used for such purposes as are consistent with regulations of the district governing board.

72677. No member of the board of directors of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which he or she is a member. Any contract or transaction entered into in violation of this section is void.

72678. No contract or other transaction entered into by the board of directors of an auxiliary organization is void under the provisions of Section 72677; nor shall any member of such board be disqualified or deemed guilty of misconduct in office under such provisions, if both of the following conditions are met:

(a) The fact of such financial interest is disclosed or known to the board of directors and noted in the minutes, and the board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members.

(b) The contract or transaction is just and reasonable as to the

auxiliary organization at the time it is authorized or approved.

72679. The provisions of Section 72678 shall not be applicable if any of the following conditions are met:

(a) The contract or transaction is between an auxiliary organization and a member of the board of directors of that auxiliary organization.

(b) The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which any member of the governing board of that auxiliary organization is a partner or in which he or she is the owner or holder, directly or indirectly, of a proprietorship interest.

(c) The contract or transaction is between an auxiliary organization and a corporation in which any member of the board of directors of that auxiliary organization is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock.

(d) A member of the board of directors of an auxiliary organization is interested in a contract or transaction within the meaning of Section 72677, and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

72680. It is unlawful for any person to utilize any information, not a matter of public record, which is received by the person by reason of his or her membership on the board of directors of an auxiliary organization, for personal pecuniary gain, regardless of whether he or she is or is not a member of the board at the time such gain is realized.

72681. The chancellor's office shall submit an annual report to the Legislature which shall describe the development and activities of the auxiliary organizations authorized by this article. The report shall also account for the cost to the chancellor's office of administering the provisions of this article.

72682. An auxiliary organization which was in existence on the effective date of this section shall continue to operate under the provisions of Article 6 (commencing with Section 72670) of Chapter 6 of Part 45, as it read immediately prior to January 1, 1980, until such time as the organization is approved pursuant to this article.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act shall be in effect for the entire 1980–81 fiscal year, it is essential that this act take effect immediately.

CHAPTER 859

An act to amend Sections 1369 and 1370.1 of the Penal Code, and to amend Sections 6503 and 6506 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Section 1369 of the Penal Code is amended to read:

1369. A trial by court or jury of the question of mental competence shall proceed in the following order:

(a) The court shall appoint a psychiatrist or licensed psychologist, and any other expert the court may deem appropriate, to examine the defendant. In any case where the defendant or the defendant's counsel informs the court that the defendant is not seeking a finding of mental incompetence, the court shall appoint two psychiatrists, licensed psychologists, or a combination thereof. One of the psychiatrists or licensed psychologists may be named by the defense and one may be named by the prosecution. If it is suspected the defendant is developmentally disabled, the court shall appoint the director of the regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, or the designee of the director, to examine the defendant. The court may order the developmentally disabled defendant to be confined for examination in a residential facility or state hospital.

The regional center director shall recommend to the court a suitable residential facility or state hospital. Prior to issuing an order pursuant to this section, the court shall consider the recommendation of the regional center director. While the person is confined pursuant to order of the court under this section, he or she shall be provided with necessary care and treatment.

(b) (1) The counsel for the defendant shall offer evidence in support of the allegation of mental incompetence.

(2) If the defense declines to offer any evidence in support of the allegation of mental incompetence, the prosecution may do so.

(c) The prosecution shall present its case regarding the issue of defendant's present mental competence.

(d) Each party may offer rebutting testimony, unless the court, for good reason in furtherance of justice, also permits other evidence in support of the original contention.

(e) When the evidence is concluded, unless the case is submitted without final argument, the prosecution shall make its final argument and the defense shall conclude with its final argument to the court or jury.

(f) In a jury trial, the court shall charge the jury, instructing them on all matters of law necessary for the rendering of a verdict. It shall be presumed that the defendant is mentally competent unless it is proved by a preponderance of the evidence that the defendant is mentally incompetent. The verdict of the jury shall be unanimous.

SEC. 2. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent, and the court shall consider a recommendation for placement, which recommendation shall be made to the court by the director of a regional center, and order that (1) in the meantime, the defendant be delivered by the sheriff or other person designated by the court to a state hospital for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy restoration of mental competence, or be ordered to undergo outpatient treatment as specified in Section 1370.3 and (2) upon the defendant becoming competent, the defendant be redelivered to the sheriff or other person designated by the court to be returned to court where the criminal process shall resume. The court shall transmit a copy of its order to the regional center director or his or her designee.

As used in this section, "developmental disability" means a disability which continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual. As defined by the Director of Developmental Services, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

If the defendant has been charged with murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of Section 211a, a violation of Section 447a involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261, a violation of Section 459 in the

first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the court shall direct that the defendant be confined for evaluation and treatment in a state hospital or other residential facility approved by the regional center director for a minimum of 90 days before such defendant may be released on outpatient treatment pursuant to Section 1374. Prior to release on outpatient treatment, such defendant shall be returned to court for a hearing to determine whether the defendant is entitled to be admitted to bail or released upon his or her own recognizance.

Prior to making such order, the court shall order the regional center director or his or her designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his or her written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other available residential facility approved by the regional center director.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the superintendent of the state hospital and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to such facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.

The defendant or prosecuting attorney, if he or she chooses to contest either kind of order of transfer, may petition the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or his or her designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the superintendent of the state hospital or other facility to which the defendant is committed, or from which the defendant is placed on outpatient treatment, shall make a written report to the regional center director or his or her designee concerning the defendant's progress toward recovery of his or her mental competence which the regional center director or his or her designee shall immediately transmit to the court as part of the defendant's progress report. If the defendant has not recovered his or her mental competence, but the report discloses a substantial likelihood the defendant will regain his or her mental competence in the foreseeable future, the defendant shall remain in the state hospital or other facility or on outpatient treatment. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the superintendent of the hospital or person in charge of the facility shall report to the regional center director or his or her designee regarding the defendant's progress toward recovery of his or her mental competence which the regional center director or his or her designee shall immediately transmit to the court as part of the defendant's progress report. If the report indicates that there is no substantial likelihood that the defendant will regain his or her mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or his or her designee.

(2) If, after the defendant has been committed or has undergone outpatient treatment for 18 months, he or she is still hospitalized or on outpatient treatment pursuant to this section, the defendant shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional center director or his or her designee.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court.

(4) The regional center director or his or her designee shall deliver the reports made pursuant to paragraph (1) to the committing court and shall provide a copy thereof to the defendant, the defendant's attorney of record, and any other interested person specified by the defendant.

(c) (1) If, at the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, the defendant has not recovered his or her mental competence, the defendant shall be returned to the committing court. The court shall notify the regional center director or his or her designee of such return and of any resulting court

orders.

(2) If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges.

SEC. 2.1. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) (1) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent, and the court shall consider a recommendation for placement, which recommendation shall be made to the court by the director of a regional center, and order that (i) in the meantime, the defendant be delivered by the sheriff or other person designated by the court to a state hospital for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy restoration of mental competence, or be placed on outpatient status pursuant to the provisions of Section 1370.4 and Title 15 (commencing with Section 1600) of Part 2 and (ii) upon becoming competent, the defendant be returned to the committing court pursuant to the procedures set forth in paragraph 2 of subdivision (a) of Section 1372 or by another person designated by the court. The court shall transmit a copy of its order to the regional center director or a designee and to the Director of Developmental Services.

As used in this section, "developmental disability" means a disability which continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual. As defined by the Director of Developmental Services, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require

treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

(2) Prior to making such order directing the defendant be confined in a state hospital or other residential facility or placed on outpatient status, the court shall order the regional center director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of such order a written recommendation as to whether the defendant should be committed to a state hospital or to any other available residential facility. No person shall be admitted to a state hospital or other residential facility or accepted for outpatient treatment under Section 1370.4 without having been evaluated by the regional center director or a designee.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to such facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.

The defendant or prosecuting attorney, may contest either kind of order of transfer, by filing a petition with the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or a designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital or other facility to which the defendant is committed, or the outpatient supervisor where the defendant is placed on outpatient status, shall make a written report to the regional center director or a designee concerning the defendant's progress toward recovery of mental competence. If the defendant has not recovered mental

competence, but the report discloses a substantial likelihood the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the state hospital or other facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the medical director of the hospital or person in charge of the facility or the outpatient supervisor shall report to the regional center director or a designee regarding the defendant's progress toward recovery of mental competence. The regional center director or a designee shall transmit that report immediately to the court as part of the defendant's progress report. The court shall provide to the prosecutor and defense counsel copies of all reports under this section. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or a designee and the Director of Developmental Services.

(2) Any defendant who has been committed or has been on outpatient status for 18 months and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional center director or a designee and the Director of Developmental Services.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. A copy of this order shall be sent to the regional center director or a designee and the Director of Developmental Services.

(c) (1) At the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, any defendant who has not been restored to mental competence shall be returned to the committing court. The court shall notify the regional center director or a designee and the Director of Developmental Services of such return and of any resulting court orders.

(2) In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code. If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section

5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385. The court shall notify the regional center director and the Director of Developmental Services of any such dismissal.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges. The court shall transmit a copy of any order of dismissal to the regional center director or a designee and to the Director of Developmental Services.

SEC. 2.2. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent, and the court shall consider a recommendation for placement, which recommendation shall be made to the court by the director of a regional center, and order that (1) in the meantime, the defendant be delivered by the sheriff or other person designated by the court to a state hospital for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy restoration of mental competence, or be ordered to undergo outpatient treatment as specified in Section 1370.3 and (2) upon the defendant becoming competent, the defendant be redelivered to the sheriff or other person designated by the court to be returned to court where the criminal process shall resume. The court shall transmit a copy of its order to the regional center director or his or her designee.

As used in this section, "developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual, and shall not include other handicapping conditions that are solely physical in nature. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be

closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

If the defendant has been charged with murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of Section 211a, a violation of Section 447a involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261, a violation of Section 459 in the first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the court shall direct that the defendant be confined for evaluation and treatment in a state hospital or other residential facility approved by the regional center director for a minimum of 90 days before such defendant may be released on outpatient treatment pursuant to Section 1374. Prior to release on outpatient treatment, such defendant shall be returned to court for a hearing to determine whether the defendant is entitled to be admitted to bail or released upon his or her own recognizance.

Prior to making such order, the court shall order the regional center director or his or her designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his or her written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other available residential facility approved by the regional center director.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the superintendent of the state hospital and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to such facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions

Code.

The defendant or prosecuting attorney, if he or she chooses to contest either kind of order of transfer, may petition the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or his or her designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the superintendent of the state hospital or other facility to which the defendant is committed, or from which the defendant is placed on outpatient treatment, shall make a written report to the regional center director or his or her designee concerning the defendant's progress toward recovery of his or her mental competence which the regional center director or his or her designee shall immediately transmit to the court as part of the defendant's progress report. If the defendant has not recovered his or her mental competence, but the report discloses a substantial likelihood the defendant will regain his or her mental competence in the foreseeable future, the defendant shall remain in the state hospital or other facility or on outpatient treatment. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the superintendent of the hospital or person in charge of the facility shall report to the regional center director or his or her designee regarding the defendant's progress toward recovery of his or her mental competence which the regional center director or his or her designee shall immediately transmit to the court as part of the defendant's progress report. If the report indicates that there is no substantial likelihood that the defendant will regain his or her mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or his or her designee.

(2) If, after the defendant has been committed or has undergone outpatient treatment for 18 months, he or she is still hospitalized or on outpatient treatment pursuant to this section, the defendant shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional center director or his or her designee.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court.

(4) The regional center director or a designee shall deliver the

reports made pursuant to paragraph (1) to the committing court and shall provide a copy thereof to the defendant, the defendant's attorney of record, and any other interested person specified by the defendant.

(c) (1) If, at the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, the defendant has not recovered his or her mental competence, the defendant shall be returned to the committing court. The court shall notify the regional center director or his or her designee of such return and of any resulting court orders.

(2) If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges.

SEC. 2.3. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) (1) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent, and the court shall consider a recommendation for placement, which recommendation shall be made to the court by the director of a regional center, and order that (i) in the meantime, the defendant be delivered by the sheriff or other person designated by the court to a state hospital for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy restoration of mental competence, or be placed on outpatient status pursuant to the provisions of Section 1370.4 and Title 15 (commencing with Section 1600) of Part 2 and (ii) upon becoming competent, the defendant be

returned to the committing court pursuant to the procedures set forth in paragraph 2 of subdivision (a) of Section 1372 or by another person designated by the court. The court shall transmit a copy of its order to the regional center director or a designee and to the Director of Developmental Services.

As used in this section, "developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual, and shall not include other handicapping conditions that are solely physical in nature. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

(2) Prior to making such order directing the defendant be confined in a state hospital or other residential facility or placed on outpatient status, the court shall order the regional center director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of such order a written recommendation as to whether the defendant should be committed to a state hospital or to any other available residential facility. No person shall be admitted to a state hospital or other residential facility or accepted for outpatient treatment under Section 1370.4 without having been evaluated by the regional center director or a designee.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to such facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.

The defendant or prosecuting attorney, may contest either kind of order of transfer, by filing a petition with the court for a hearing, which shall be held if the court determines that sufficient grounds

exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or a designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital or other facility to which the defendant is committed, or the outpatient supervisor where the defendant is placed on outpatient status, shall make a written report to the regional center director or a designee concerning the defendant's progress toward recovery of mental competence. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the state hospital or other facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the medical director of the hospital or person in charge of the facility or the outpatient supervisor shall report to the regional center director or a designee regarding the defendant's progress toward recovery of mental competence. The regional center director or a designee shall transmit that report immediately to the court as part of the defendant's progress report. The court shall provide to the prosecutor and defense counsel copies of all reports under this section. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or a designee and the Director of Developmental Services.

(2) Any defendant who has been committed or has been on outpatient status for 18 months and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional center director or a designee and the Director of Developmental Services.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. A copy of this order shall be sent to the regional center director or a designee and the Director of Developmental Services.

(c) (1) At the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged

in the information, indictment, or misdemeanor complaint, whichever is shorter, any defendant who has not been restored to mental competence shall be returned to the committing court. The court shall notify the regional center director or a designee and the Director of Developmental Services of such return and of any resulting court orders.

(2) In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code. If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385. The court shall notify the regional center director and the Director of Developmental Services of any such dismissal.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges. The court shall transmit a copy of any order of dismissal to the regional center director or a designee and to the Director of Developmental Services.

SEC. 3. Section 6503 of the Welfare and Institutions Code is amended to read:

6503. The court shall fix a time and place for the hearing of the petition. The time for the hearing shall be set no more than 60 days after the filing of the petition. The court may grant a continuance only upon a showing of good cause. The hearing may, in the discretion of the court, be held at any place which the court deems proper, and which will give opportunity for the production and examination of witnesses.

SEC. 4. Section 6506 of the Welfare and Institutions Code is amended to read:

6506. Pending the hearing, the court may order that the alleged dangerous mentally retarded person may be left in the charge of his or her parent, guardian, conservator, or other suitable person, or placed in a state hospital for the developmentally disabled or in the county psychiatric hospital. Prior to the issuance of an order under

this section, the regional center shall recommend to the court a suitable person or facility to care for the alleged mentally retarded person.

Pending the hearing the court may order that the person receive necessary habilitation, care, and treatment, including medical and dental treatment.

Orders made pursuant to this section shall expire at the time set for the hearing pursuant to Section 6503. If the court upon a showing of good cause grants a continuance of the hearing on the matter, it shall order that the person be detained pursuant to this section until the hearing on the petition is held.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. It is the intent of the Legislature that if this bill and Assembly Bill 2751 or Senate Bill 579, or both, are chaptered and become effective January 1, 1981, each of the bills amends Section 1370.1 of the Penal Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 2751 are both chaptered and become effective January 1, 1981, both bills amend Section 1370.1 of the Penal Code, but Senate Bill 579 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2751, the amendments proposed by both bills shall be given effect and incorporated in Section 1370.1 in the form set forth in Section 2.1 of this act. Therefore, if this bill and Assembly Bill 2751 are both chaptered and become effective January 1, 1981, both bills amend Section 1370.1, this bill is chaptered after Assembly Bill 2751, and Senate Bill 579 is not chaptered or as chaptered does not amend that section, Section 2.1 of this act shall be operative and Sections 2, 2.2, and 2.3 of this act shall not become operative.

(2) If this bill and Senate Bill 579 are both chaptered and become effective January 1, 1981, both bills amend Section 1370.1 of the Penal Code, but Assembly Bill 2751 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 579, the amendments proposed by both bills shall be given effect and incorporated in Section 1370.1 in the form set forth in Section 2.2 of this act. Therefore, if this bill and Senate Bill 579 are both chaptered and become effective January 1, 1981, both bills amend Section 1370.1, this bill is chaptered after Senate Bill 579, and Assembly Bill 2751 is not chaptered or as chaptered does not amend that section, Section 2.2 of this act shall be operative and Sections 2, 2.1, and 2.3 of this act shall not become operative.

(3) If this bill and Assembly Bill 2751 and Senate Bill 579 are all

chaptered and become effective January 1, 1981, all three bills amend Section 1370.1 of the Penal Code, and this bill is chaptered after Assembly Bill 2751 and Senate Bill 579, the amendments proposed by all three bills shall be given effect and incorporated in Section 1370.1 in the form set forth in Section 2.3 of this act. Therefore, if this bill and Assembly Bill 2751 and Senate Bill 579 are all chaptered and become effective January 1, 1981, all three bills amend Section 1370.1 of the Penal Code, and this bill is chaptered after Assembly Bill 2751 and Senate Bill 579, Section 2.3 of this act shall be operative and Sections 2, 2.1, and 2.2 of this act shall not become operative.

CHAPTER 860

An act to amend Sections 69532, 69536, 69538, and 69539 of the Education Code, relating to postsecondary education.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 69532 of the Education Code is amended to read:

69532. There shall be 23,062 new Cal Grant awards for first-time recipients for the 1980–81 fiscal year, and for each fiscal year thereafter. Such grants shall be allocated as follows:

(a) 14,900 awards for the 1980–81 fiscal year, and each fiscal year thereafter, to be utilized for tuition and student fees pursuant to Section 69536.

(b) 6,825 awards for the 1980–81 fiscal year, and for each fiscal year thereafter, to be utilized for tuition, student fees, and subsistence costs pursuant to Section 69538.

(c) 1,337 awards for the 1980–81 fiscal year and each fiscal year thereafter, to be utilized for occupational or technical training pursuant to Sections 69539 through 69543.

The budget required by the State Constitution to be submitted by the Governor at each regular session of the Legislature shall take into consideration the amount of federal funds available through State Student Incentive Grants for the Cal Grant awards.

SEC. 2. Section 69536 of the Education Code is amended to read:

69536. A Cal Grant award for tuition and student fees as provided in subdivision (a) of Section 69532 may be utilized at any California postsecondary educational institution or program which participates in two of the three federal campus-based student aid programs and whose students participate in the Federal Basic Educational Opportunity Grant Program, provided that such award may not be utilized by a student enrolled in an instructional program of less than two years. No such award may exceed the cost of tuition and fees, and

shall in no event exceed the sum of two thousand seven hundred dollars ($2,700). Such awards may not be utilized for graduate study, and may be renewed for a total of four years of full-time attendance after first entering a postsecondary education institution in an instructional program or an equivalent thereof, provided that financial need continues to exist.

If a student is enrolled in a five-year undergraduate program, the grant may be renewed for a total of five years of full-time attendance after first entering a postsecondary education institution in an undergraduate instructional program or an equivalent thereof, provided that financial need continues to exist.

SEC. 3. Section 69538 of the Education Code is amended to read:

69538. To be eligible for a Cal Grant award for tuition, student fees, and subsistence costs as provided in subdivision (b) of Section 69532 the student shall be a disadvantaged student under criteria to be established by the commission, which shall take into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions which tend to make difficult the gaining access to and persisting in postsecondary programs. Such awards may be utilized for tuition, student fees, living expenses, transportation, supplies, and books.

The Legislature recognizes that the role of the community colleges, as the least expensive level of California higher education, is a crucial role in increasing the higher education opportunities for disadvantaged students, and it is the intent of the Legislature that the additional opportunities for higher education provided pursuant to this chapter shall be initiated primarily on the public community college level.

Grants awarded under this chapter shall be for living expenses, transportation, supplies and books, according to the student's financial need, and shall not be in excess of one thousand one hundred dollars ($1,100) per academic year. The Student Aid Commission may also award such grants and an additional amount to pay tuition and fees to attend college at a public or private four-year college or university or other eligible postsecondary educational institution. No more than 2 percent of new recipients enrolling for the first time in an institution of postsecondary education shall be eligible for tuition payments in their first academic year of attendance.

In no case shall Cal Grant awards exceed the sum of three thousand six hundred dollars ($3,600), and such awards may not be utilized for graduate study. The awards may be utilized at any California postsecondary educational institution or program which participates in two of the three federal campus-based student aid programs and whose students participate in the Federal Basic Educational Opportunity Grant Program, provided that such award may not be utilized by a student enrolled in an instructional program of less than one academic year. The awards may be renewed for a total of four years of full-time attendance after first entering a postsecondary

institution in an instructional program or an equivalent thereof, provided that financial need continues to exist.

If a student is enrolled in a five-year undergraduate program, the grant may be renewed for a total of five years for full-time attendance after first entering a postsecondary education institution in an undergraduate instructional program or an equivalent thereof, provided that financial need continues to exist.

An individual who is awarded a Cal Grant award authorized pursuant to subdivision (b) of Section 69532, who enrolls in a public community college in his or her first year of attendance, and who is determined to be financially ineligible for renewal of the award in the second year of attendance at a public community college but would be financially eligible for renewal, if he or she had elected to attend a four-year college, may elect to have the award held in trust for a period not to exceed one academic year, except that the commission may extend the period in which the award is held in trust up to a period of three academic years, if, in the commission's judgment, the individual's rate of academic progress has been as rapid as could be expected for the personal and financial conditions which the individual has encountered. The commission shall, in such case, hold the award in trust, to be granted to such individual upon receipt of his or her request therefor within such period, provided that at the time of making the request the individual meets all the requirements of this chapter. Upon receipt of the request, the commission shall assess or reassess the financial needs of the individual. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. The commission may award to another eligible individual any award being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the commission, to the end that all authorized awards are continually being utilized. Following the first year for which any such award is made, such awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

SEC. 4. Section 69539 of the Education Code is amended to read:

69539. A Cal Grant award pursuant to subdivision (c) of Section 69532 shall be utilized for occupational or technical training in any California institution or program which participates in two of the three federal campus-based student aid programs and whose students participate in the Federal Basic Educational Opportunity Grant Program. As used in this section, "occupational or technical training" shall mean that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

CHAPTER 861

An act to add Sections 25539.4 and 37364 to the Government Code, relating to housing.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Section 25539.4 is added to the Government Code, to read:

25539.4. The Legislature recognizes that real property of counties can be utilized, in accordance with a county's best interests, to provide housing affordable to persons or families of low or moderate income. Therefore, notwithstanding any other provision of law, whenever the board of supervisors determines that any real property or interest therein owned by the county can be used to provide housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its successors, and that such use is in the county's best interests, the county may sell, lease, exchange, quitclaim, convey, or otherwise dispose of such real property or interest therein at less than fair market value to provide such affordable housing without complying with other provisions of this article. Not less than 80 percent of the area of any parcel of property disposed of pursuant to the provisions of this section shall be used for the development of housing. Not less than 40 percent of the total number of such housing units developed on any parcel transferred pursuant to this section shall be affordable to persons or families of low or moderate income, at least half of which shall be affordable to persons of low income. Dwelling units produced for persons and families of low or moderate income under this section shall be restricted to remain continually affordable to such persons and families for a period of not less than 30, nor more than 40, years pursuant to a method prescribed by the county. Such a restriction shall be contained in the instrument of conveyance of the real property subject to the restriction.

SEC. 2. Section 37364 is added to the Government Code, to read:

37364. The Legislature reaffirms its finding that the provision of housing for all Californians is a concern of vital statewide importance. The Legislature recognizes that real property of cities can be utilized, in accordance with a city's best interests, to provide housing affordable to persons and families of low or moderate income. Therefore, notwithstanding any provision of a city's charter, or any other provision of law, whenever the legislative body of a city determines that any real property or interest therein owned by the city can be used to provide housing affordable to persons and families

of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its successors, and that such use is in the city's best interests, the city may sell, lease, exchange, quitclaim, convey, or otherwise dispose of such real property or interest therein at less than fair market value to provide such affordable housing under whatever terms and conditions the city deems best suited to the provision of such housing. Not less than 80 percent of the area of any parcel of property disposed of pursuant to this section shall be used for development of housing. Not less than 40 percent of the total number of such housing units developed on any parcel transferred pursuant to this section shall be affordable to persons or families of low or moderate income, at least half of which shall be affordable to persons of low income. Dwelling units produced for persons and families of low or moderate income under this section shall be restricted to remain continually affordable to such persons and families for a period of not less than 30, nor more than 40, years pursuant to a method prescribed by the city. Such a restriction shall be contained in the instrument of conveyance of the real property subject to such restriction. The provisions of this section shall apply to all cities, including charter cities.

CHAPTER 862

An act to amend Section 43.95 of the Civil Code, relating to telephone information libraries.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 43.95 of the Civil Code is amended to read:

43.95. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society or any nonprofit corporation authorized by such society to operate a referral service, or their agents, employees, or members, for referring any member of the public to any professional member of such society, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no charge as part of a public service referral system organized under the auspices of the professional society. Further, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society for providing a telephone information library available for use by the general public without charge, nor against any nonprofit corporation

authorized by such society for providing a telephone information library available for use by the general public without charge. "Professional society" includes legal, psychological, architectural, dental, accounting, optometric, podiatric, pharmaceutic, chiropractic, and engineering organizations having as members at least a majority of the eligible licentiates in the area served by the particular society.

(b) This section shall not apply whenever the professional society, while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary action in either of the following cases:

(1) Where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred; or

(2) Where a period of three years has elapsed since the professional to whom a member of the public was referred has satisfied any terms, conditions, or sanctions imposed upon such professional as disciplinary action.

SEC. 2. Section 43.95 of the Civil Code is amended to read:

43.95. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society or any nonprofit corporation authorized by such society to operate a referral service, or their agents, employees, or members, for referring any member of the public to any professional member of such society or service, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no cost added to the initial referral fee as part of a public service referral system organized under the auspices of the professional society. Further, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society for providing a telephone information library available for use by the general public without charge, nor against any nonprofit corporation authorized by such society for providing a telephone information library available for use by the general public without charge. "Professional society" includes legal, psychological, architectural, dental, accounting, optometric, podiatric, pharmaceutic, chiropractic, and engineering organizations having as members at least a majority of the eligible licentiates in the area served by the particular society, or organizations with referral services which have been authorized by the State Bar of California and operated in accordance with its Minimum Standards for a Lawyer Referral Service in California, and organizations which have been established to provide free assistance or representation to needy patients or clients.

(b) This section shall not apply whenever the professional society,

while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary action in either of the following cases:

(1) Where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred; or

(2) Where a period of three years has elapsed since the professional to whom a member of the public was referred has satisfied any terms, conditions, or sanctions imposed upon such professional as disciplinary action; except that if the professional is an attorney, there shall be no time limit on the duty to disclose.

SEC. 3. It is the intent of the Legislature if this bill and Assembly Bill 3335 are both chaptered and become effective January 1, 1981, both bills amend Section 43.95 of the Civil Code, and this bill is chaptered after Assembly Bill 3335, that the amendments to Section 43.95 proposed by both bills be given effect and incorporated in Section 43.95 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 3335 are both chaptered and become effective January 1, 1981, both amend Section 43.95, and this bill is chaptered after Assembly Bill 3335, in which case Section 1 of this act shall not become operative.

CHAPTER 863

An act to add Section 4600.6 to the Civil Code, relating to trials.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 4600.6 is added to the Civil Code, to read:

4600.6. (a) In any case in which a contested issue of custody of a minor child is the sole contested issue, the case shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date and shall be given an early hearing.

(b) In any case in which there is more than one contested issue and one of the issues is of the custody of a minor child, the court, as to the issue of custody, shall order a separate trial. The separate trial shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date.

CHAPTER 864

An act to add Section 798.27 to the Civil Code, relating to landlord and tenant.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 798.27 is added to the Civil Code, to read:

798.27. (a) The management shall give written notice to all tenants and prospective tenants concerning the following matters: (1) the nature of the zoning permit under which the mobilehome park operates. If the mobilehome park is operating pursuant to a permit subject to a renewal or expiration date, the relevant information and dates shall be included in the notice. (2) The duration of any lease of the mobilehome park, or any portion thereof, in which the management is a lessee.

(b) The management shall give the required notice to all tenants and prospective tenants anytime between January 1, 1981, and June 1, 1981, inclusive. If a change occurs concerning the zoning permit under which the park operates or a lease in which the management is a lessee, all tenants shall be given written notice within 30 days of such change. A prospective tenant shall be notified prior to the inception of the tenancy.

CHAPTER 865

An act to amend Section 7091 of the Business and Professions Code, relating to contractors.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 7091 of the Business and Professions Code is amended to read:

7091. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of Section 7112, the accusation may be filed within two years after the discovery by the registrar or by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section. Accusations regarding an alleged breach of an express, written warranty issued by the contractor shall be filed within the duration of that warranty. The proceedings under this article shall be

conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

Nothing in this section shall be construed to affect the liability of a surety or the period of limitations prescribed by law for the commencement of actions against a surety or cash deposit.

CHAPTER 866

An act to add Sections 4801.6 and 4801.7 to the Civil Code, relating to spousal support.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Section 4801.6 is added to the Civil Code, to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make such payment of spousal support to assign to the county clerk or other officer of the court or county officer designated by the court to receive such payment, that portion of salary or wages of said party due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. Such order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make such payment of spousal support upon whom a copy of such order is served. The Judicial Council shall prescribe forms for such orders. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to such order. Any such order may be modified or revoked at any time by the court. Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701. The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the spousal support obligation.

(b) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party upon both a petition by the person to whom support has been ordered to have been paid and a finding by the court that the party so ordered to pay spousal support is in arrears in payment in a sum equal to the amount of two months of such payments within the 24-month period immediately preceding submission of such petition, the court shall order the defaulting party

to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive such payment, that portion of the salary or wages of the party required to make such payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make such payment of spousal support upon whom a copy of such order is served. The Judicial Council shall prescribe forms for such orders. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

The party to whom support has been ordered to be paid shall notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and such county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after such changes. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

For purposes of this subdivision, arrearages in payment shall be computed on the basis of the payments owed and unpaid on the date that the defaulting party has been given notice personally, and not by mail pursuant to Sections 1010 and 1011 of the Code of Civil Procedure of the application for the order of assignment, and the fact that the defaulting party may have subsequently paid such arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

Upon a petition by the defaulting party, the court shall terminate such order of assignment entered pursuant to the subdivision if (1) there has been 18 continuous and uninterrupted months of full payment under the wage assignment or (2) the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom spousal support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) No employer shall use any assignment authorized by this section as grounds for the dismissal of such employee.

(d) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(e) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his employer are unknown to the party to whom spousal support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(f) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(g) Notwithstanding any other provision of law, the provisions of this section shall be applicable to all money received by any person as a pension, or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon from the United States government or from the state, or any county, city, or city and county, or other political subdivision of the state, or any public trust, or public corporation, or from the governing body of any of them, or from any public board or boards, or from any retirement, disability, or annuity system established by any of them pursuant to statute.

(h) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in subdivision (g) other than the United States government, such entity shall comply with any request for a return of employee contributions by an employee named in such order by delivering such contributions to the clerk of the court from which such order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of such fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. Such moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, release the moneys to the

defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

SEC. 2. Section 4801.7 is added to the Civil Code, to read:

4801.7. (a) Notwithstanding the provisions of Section 4801.6, in any proceeding where a court makes or has made an order requiring payment of spousal support to a party receiving welfare moneys for that party's maintenance, the court shall direct that payments of spousal support be made to the county clerk or other officer of the court or county officer designated by the court for such purpose, and shall direct the district attorney to appear on behalf of such welfare recipient in any proceeding to enforce such order.

(b) In any proceeding where a court makes or has made an order requiring payment of spousal support, the court may direct that payments thereof be made to the county clerk or other officer of the court or county officer designated by the court for such purpose, and may direct the district attorney to appear on behalf of the party to whom support payments are to be made in any action to enforce such order. The court shall include in any such order any service charge imposed under the authority of Section 580.5 of the Welfare and Institutions Code.

(c) Expenses of the county clerk or other officer of the court or county officer designated by the court, and expenses of the district attorney incurred in the enforcement of any order of the type described in subdivision (a) or (b), shall be a charge upon the county where the proceedings are pending. Any fees for service of process in the enforcement of any such order shall be a charge upon the county where the process is served.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 867

An act to amend Sections 848 and 849 of the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980.]

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

SECTION 1. Section 848 of the Unemployment Insurance Code is amended to read:

848. (a) For each fiscal year each local public entity, through its city, county, or district auditor or other responsible officer or person, shall remit on or before the last day of the calendar month following the close of each calendar quarter, to the State Treasurer for deposit in the Local Public Entity Employees Fund in the State Treasury, an amount computed by multiplying the tax rate by total wages as defined by Section 940. Notwithstanding any other provision of this article, to the extent permitted by federal law, no payment shall be required from any local public entity with respect to any wages paid to any individual to the extent that federal law provides for reimbursement to the State of California for all benefits paid from the Unemployment Fund to such individual based on such wages.

(b) For the 1978–79 fiscal year, the 1979–80 fiscal year, and the 1980–81 fiscal year, the tax rate under this section shall be eight-tenths of 1 percent, except as provided in subdivision (c), or if the director finds that the ability of the Local Public Entity Employees Fund to meet its estimated obligations promptly when due will become endangered, he or she shall increase the tax rate from time to time to protect the solvency of the fund and shall notify local public entities of any increased tax rates under this authority. No payments shall be required from any local public entity under this section prior to the fiscal year 1978–79. The director shall, not later than January 31st preceding each fiscal year commencing with the 1981–82 fiscal year, determine and notify each local public entity of the tax rate to apply for such fiscal year.

(c) If as of December 31, 1979, a local public entity's net balance of reserve exceeds one-half of 1 percent of its 1978–79 fiscal year payroll, then its tax rate shall be four-tenths of 1 percent for the 1980–81 fiscal year.

(d) As used in this section, "benefit cost ratio" means the quotient obtained by dividing the average annual benefit charges to the account of a local public entity for the three complete fiscal years ending with the second next fiscal year immediately preceding a fiscal year by the average annual wages (as defined by Section 940) paid by such local public entity during such three fiscal years, multiplied by 100 to express a percentage and rounded to the next higher one-tenth of 1 percent.

(e) A local public entity's tax rate shall be eight-tenths of 1 percent, except as provided in subdivision (c), until the expiration of the first three complete fiscal years of the entity's participation in the Local Public Entity Employees Fund. A local public entity's tax rate for the fourth fiscal year of such participation shall be its benefit cost ratio, based on average benefit charges and wages for the first two fiscal years, rather than three fiscal years of participation. A local public entity's tax rate for the fifth fiscal year, and each succeeding

fiscal year, of its participation in such fund shall be its benefit cost ratio, subject to the following adjustments:

(1) If the local public entity has no positive balance of reserve in its account as of the close of the second next preceding fiscal year, two-tenths of 1 percent shall be added to the benefit cost ratio.

(2) If the local public entity has a positive balance of reserve in its account as of the close of the second next preceding fiscal year in excess of twice the average annual benefit charges for the three fiscal years ending with such second next preceding fiscal year, two-tenths of 1 percent shall be subtracted from the benefit cost ratio, but the tax rate shall not be less than zero.

(3) If there is no positive balance in the Local Public Entity Employees Fund as of the December 31st preceding the fiscal year to which the tax rate applies, two-tenths of 1 percent shall be added to the tax rate otherwise applicable.

(4) If the balance in the Local Public Entity Employees Fund as of the December 31st preceding the fiscal year to which the rate applies exceeds twice the total average annual benefit charges to the fund for the three fiscal years ending with the second next preceding fiscal year, two-tenths of 1 percent shall be subtracted from the tax rate otherwise applicable, but the tax rate shall not be less than zero.

(f) If the administrator finds that the ability of the Local Public Entity Employees Fund to meet its estimated obligations promptly when due will become endangered, he or she shall from time to time increase any contribution rate otherwise provided by this section to a level estimated to be needed to protect the solvency of the fund and shall notify all local public entities participating in the fund of any increased contribution rate under this authority.

SEC. 2. Section 849 of the Unemployment Insurance Code is amended to read:

849. Whenever the unencumbered balance of interest deposited in or earned by the Local Public Entity Employees Fund, after the deduction of administrative expenses paid or encumbered, exceeds two hundred fifty thousand dollars ($250,000) as of the close of a fiscal year, the unencumbered balance shall be credited as of the close of such fiscal year to the account of each local public entity which has a positive account balance in the fund in the proportion that each entity's positive account balance bears to the total of all positive account balances in the fund as of the close of such fiscal year.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to make available needed financial resources to local government as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 868

An act to amend, repeal, and add Section 21059 of the Food and Agricultural Code, relating to livestock, and making an appropriation therefor.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 21059 of the Food and Agricultural Code is amended to read:

21059. Inspection is not required in the following cases when cattle are shipped for pasture or feeding purposes and there is no change of ownership:

(a) When the cattle are moved only between points in the same modified point-of-origin inspection area.

(b) When the cattle are only moved across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved only between points within a point-of-origin area.

(d) When cattle are moved across a modified point-of-origin inspection area boundary in accordance with regulations adopted by the director which specifically allow such cattle to move under a permit for a distance not to exceed 40 miles from loading point to destination. The director may establish a fee for such permit on a graduated scale based on the number of head of cattle moved in a 12-month period, but not to exceed two hundred dollars ($200).

This section does not apply to cattle entering a registered feedlot.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 2. Section 21059 is added to the Food and Agricultural Code, to read:

21059. Inspection is not required in the following cases when cattle are shipped for pasture or feeding purposes and there is no change of ownership:

(a) When the cattle are moved only between points in the same modified point-of-origin inspection area.

(b) When the cattle are only moved across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved only between points within a point-of-origin area.

This section does not apply to cattle entering a registered feedlot.

This section shall become operative on January 1, 1983.

SEC. 3. The Director of Food and Agriculture shall report to the

Assembly Committee on Agriculture and the Senate Committee on Agriculture and Water Resources on or before January 1, 1983, on the operation of the permit program instituted pursuant to subdivision (d) of Section 21059 of the Food and Agricultural Code.

CHAPTER 869

An act to amend Section 70031 of, and to add Section 70031 1 to, the Education Code, and to amend Sections 3517.6 and 11030.2 of the Government Code, relating to state employer-employee relations.

[Approved by Governor August 30, 1980 Filed with Secretary of State August 31, 1980]

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

SECTION 1. Section 70031 of the Education Code is amended to read:

70031. (a) The State Personnel Board shall establish and adjust the salaries of the superintendent, members of the teaching staff, officers and employees of the California Maritime Academy in the same manner and following the same procedures as in the establishment and adjustment of state civil service salaries.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Section 70031.1 is added to the Education Code, to read:

70031.1. The State Personnel Board shall establish and adjust the classifications of the superintendent, members of the teaching staff, and officers and employees of the California Maritime Academy in the same manner and following the same procedures as in the establishment and adjustment of state civil service classifications.

SEC. 3. Section 3517.6 of the Government Code is amended to read:

3517.6. In any case where the provisions of Section 70031 of the Education Code, or subdivision (h) of Section 3513, or Section 11030.2, 13920, 13924, 14876, 18001, 18005, 18005.5, 18006, 18007, 18020, 18021, 18021.5, 18021.6, 18021.7, 18022, 18023, 18024, 18025, 18025.1, 18026, 18050, 18050.1, 18051, 18051.5, 18100, 18100.1, 18100.5, 18101, 18101.5, 18102, 18102.5, 18103, 18105, 18120, 18121, 18122, 18122.1, 18123, 18124, 18125, 18126, 18127, 18128, 18129, 18135, 18135.5, 18136, 18137, 18137.5, 18138, 18139, 18140, 18141, 18142, 18300, 18301, 18302, 18310, 18705, 18714, 18730, 18731, 18732, 18850, 18850.1, 18851, 18852,

18853, 18853.5, 18854, 18855, 18856, 18857, 18859, 18860, 18861, 19080.5, 19100, 19120, 19143, 19251, 19252, 19261, 19300, 19301, 19302, 19303, 19304, 19330, 19330.5, 19331, 19332, 19333, 19334, 19335, 19360, 19360.5, 19361, 19362, 19450, 19451, 19452, 19455, 19460, 19461, 19462, 19463, 19464, 19465, 19502, 19503, 19555, 19556, 20750.11, 21400, 21402, 21404, 21405, 22825, or 22825.1 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action. In any case where the provisions of Section 19532, 19533, 19535, 19536, 19536.5, 19537, 19538, 19540, or 19541 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where such finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature.

SEC. 4. Section 11030.2 of the Government Code is amended to read:

11030.2. (a) Any state officer or employee when working overtime at his headquarters on state business may receive his actual and necessary expenses, during his regular work week, subject to rules and regulations adopted by the Board of Control limiting the amount of the expenses and prescribing the conditions under which the expenses may be paid; provided, however, that each state agency may determine the necessity for and limit such expenses of its employees in such manner as does not conflict with and is within the limitations prescribed by the Board of Control.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

CHAPTER 870

An act to add Section 66473.2 to the Government Code, relating to subdivisions.

[Approved by Governor August 31, 1980 Filed with Secretary of State September 1, 1980.]

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

SECTION 1. Section 66473.2 is added to the Government Code, to read:

66473.2. The legislative body of a city or county may, by ordinance, require the design of a subdivision for which a tentative map is required pursuant to Section 66426 to provide for the availability of individual household telephone service to each residential parcel in the subdivision.

CHAPTER 871

An act to amend Section 14613 of, and to add Section 14613.3 to, the Government Code, relating to state police, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1980. Filed with Secretary of State September 1, 1980.]

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

SECTION 1. Section 14613 of the Government Code is amended to read:

14613. There is in the Department of General Services the California State Police Division.

The director shall appoint members and employees of the California State Police Division as may be necessary to protect and provide police services for the state buildings and grounds and occupants thereof. Members and security officers of the California State Police Division have the powers of peace officers as defined in the Penal Code.

Members of the California State Police Division consist of the following: the chief, inspectors, captains, lieutenants, sergeants, and officers. Employees of the California State Police Division consist of the following: security officers, assistants, clerks, and dispatchers.

The California State Police Division may provide for the physical security of the constitutional officers of the state and the legislators of the state.

SEC. 2. Section 14613.3 is added to the Government Code, to read:

14613.3. There shall be a minimum of eight dispatcher positions within the California State Police Division, and at least five of such positions shall be in addition to the number of positions of members and employees of the division employed at the State Capitol on July 1, 1980. The director shall appoint employees, and not members, to these positions to provide dispatch services for the California State Police Division.

In enacting this section, it is the intent of the Legislature that members of the California State Police Division be relieved of dispatching functions and returned to police functions to enhance the level of police services for state buildings and grounds and occupants thereof.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution, and shall go into immediate effect. The facts constituting such necessity are:

This act will provide a minimum of eight dispatcher positions within the California State Police Division, which will allow at least eight police officers to be relieved of dispatching duties and subsequently be placed in positions which will better utilize their training and expertise in the role of state employee protection.

In order that officers may be utilized in those positions at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 872

An act to amend the heading of Chapter 6 (commencing with Section 67130) of Title 7.5 of, to add Section 67131 to, to repeal and add Section 66801 of, the Government Code, and to repeal Chapter 1329 of the Statutes of 1976, relating to Tahoe regional planning.

[Approved by Governor August 31, 1980. Filed with Secretary of State September 2, 1980.]

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

SECTION 1. Section 66801 of the Government Code is repealed.

SEC. 2. Section 66801 is added to the Government Code, to read:

66801. The provisions of this interstate compact executed between the States of Nevada and California are as follows:

TAHOE REGIONAL PLANNING COMPACT

ARTICLE I. FINDINGS AND DECLARATIONS OF POLICY

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region

are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the Federal Government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the Federal Government should assist the states in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its man-made environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe Counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional Plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of Article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable state law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(*l*) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas of each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III. ORGANIZATION

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointd by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe Counties and one member appointed by the Board of Supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the governor of Nevada, the Secretary of State of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. Except for the secretary of state and the director of the state department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other

members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that state the Governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1) (A), (1) (B), (2) (A) or (2) (B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interest in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than $1,000.

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than $1,000.

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 month; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met

in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the Secretary of State and Director of the State Department of Conservation and Natural Resources of Nevada and the member appointed pursuant to subdivision (a) (2) (C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be opened to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as the "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date, and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) Four of the members of the governing body from each state constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required to take action. If there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the state in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the state in which the project is located and at least nine members of the

entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the Director of the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Division of Environmental Protection in the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed. The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own

members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be opened to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. PERSONNEL

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. PLANNING

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the

planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision. If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment, the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the States of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and include all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to, an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(a) To reduce the dependency on the automobile by making more effective use of existing transportation modes and of public transit, in order to move people and goods within the region and

(b) To reduce to the extent feasible air pollution which is caused by motor vehicles.

Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the States of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek

to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant

information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. AGENCY'S POWERS

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall precribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may

be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate such plan.

The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the states of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calender years 1980, 1981, and 1982 no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during calendar year 1978. For the period of January through April, 1983 building permits authorizing the construction of no more than ⅓ of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an

apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during calender year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	252
2. Placer County	278
3. Carson City	0
4. Douglas County	339
5. Washoe County	739

(4) During each of the calender years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calender year 1978. For the period of January through April, 1983 building permits authorizing the construction of no more than ⅓ the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calender year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	64,324
2. Placer County	23,000
3. Carson City	0
4. Douglas County	57,354
5. Washoe County	50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluence under the Clean Water Act, 33 U.S.C. S1251 et seq., and the applicable state law for control of water pollution; or

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District #1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluence for which they were originally designed which is 3.0 mgd. Such modification or alteration is not a "project"; is not subject to the requirements of Article VII; and does not require a permit from the agency. Before commencing such modification or alternative, however, the district

shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accomodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should, or should not, be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the States of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the the Tahoe Regional Planning agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calender year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date. The area within any structure housing gaming under a non-restricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also

requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by Article VI (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraphs (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to the public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which are used for gaming by more than the product of the total base area as defined below in square feet existing on or approved before August 4, 1980, multiplied by fifteen

percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by Article VI (g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the stucture; and

(E) The base area as defined in paragraph (f) (3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accomodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel or real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(6) The provisions of this subdivision do not apply to any legal

proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(*l*) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000. Any such person is subject to an additional civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the Legislative Auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued

by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. ENVIRONMENTAL IMPACT STATEMENTS

(a) The Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal,

state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. FINANCES

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion $75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay $18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay $12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1, of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the states of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. TRANSPORTATION DISTRICT

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer;

(2) One member of the city council of the City of South Lake Tahoe;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County;

(4) One member of the board of supervisors of Carson City;

(5) The director of the California Department of Transportation; and

(6) The director of the department of transportation of the State of Nevada.

Any director may designate an alternate.

(c) The vote of at least five of the directors must agree to take action. If at least five votes in favor of an action are not cast, an action of rejections shall be deemed to have been taken.

(d) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Acquire upon mutually agreeable terms any public transportation system or facility owned by a county, city or special purpose district within the region.

(3) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(4) Fix the rates and charges for transit services provided pursuant to this subdivision.

(5) Issue revenue bonds and other evidence of indebtedness.

(6) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way. The district is prohibited from imposing an ad valorem tax, a tax measured by gross or net receipts on business, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices. Any such proposition must be submitted to the voters of the district and shall become effective upon approval of two-thirds of the voters voting on the proposition. The revenues from any such tax must be used for the services for which it was imposed, and for no other purpose.

(7) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.

(8) The Legislatures of the States of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. MISCELLANEOUS

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this

compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriative water right.

SEC. 3. The heading of Chapter 6 (commencing with Section 67130) of Title 7.5 of the Government Code is amended to read:

CHAPTER 6. DISSOLUTION AND DEACTIVATION

SEC. 4. Section 67131 is added to the Government Code, to read:

67131. On the effective date of the ordinances, rules and regulations adopted pursuant to Section (a) of Article V, of the Tahoe Regional Planning Compact (as set forth in Title 7.4 (commencing with Section 66801)) in order to implement the revisions in such compact, including the revisions in the Lake Tahoe Regional Plan, adopted at the 1979–1980 Regular Session of the Legislature, no further state funds shall be expended for the support of the California Tahoe Regional Planning Agency and the provisions of this title shall no longer be enforced. At any time thereafter, the provisions of this title may be reactivated if state funds are specifically appropriated for such purposes, at which time the provisions of this title shall have full force and effect.

SEC. 5. The provisions of Chapter 1329 of the Statutes of 1976 are repealed.

SEC. 6. Section 2 of this act shall become effective only upon the adoption by the State of Nevada of those amendments to the Tahoe Regional Planning Compact as provided for in Section 2, ratification of such amendments by the Congress of the United States and

approval by the President of the United States of America.

CHAPTER 873

An act to amend Section 25191 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 10, 1980 Filed with Secretary of State September 10, 1980.]

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

SECTION 1. Section 25191 of the Health and Safety Code is amended to read:

25191. Any person who knowingly disposes of any hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or to imprisonment for three, four, or five years, or both, and may be required to disclose the fact of this violation to such persons as the court may direct. If the conviction is for a violation committed after a first conviction of such person under this section, such person shall be punished by a fine of not more than fifty thousand dollars ($50,000) per day of violation or by imprisonment for three, four, or five years, or both, and may be required to disclose the fact of the violation to such persons as the court may direct.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 874

An act to add and repeal Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code, relating to toxic substances.

[Approved by Governor September 10, 1980 Filed with Secretary of State September 10, 1980.]

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

SECTION 1. Chapter 2.5 (commencing with Section 6360) is added to Part 1 of Division 5 of the Labor Code, to read:

CHAPTER 2.5. HAZARDOUS SUBSTANCES INFORMATION AND TRAINING

Article 1. General Provisions

6360. This chapter shall be known and may be cited as the Hazardous Substances Information and Training Act.

6361. (a) The Legislature finds and declares the following:

(1) Hazardous substances in the workplace in some forms and concentrations pose potential acute and chronic health hazards to employees who are exposed to these substances.

(2) Employers and employees have a right and a need to know the properties and potential hazards of substances to which they may be exposed, and such knowledge is essential to reducing the incidence and cost of occupational disease.

(3) Employers do not always have available adequate data on the contents and properties of specific hazardous substances necessary for the provision of a safe and healthful workplace and the provision of information and training to employees as is the responsibility of the employer under existing law.

(4) Many effective employee information and training programs now exist, and with the increased availability of basic information and with the extension of such programs to all affected employees, preventable health risks in the workplace would be further reduced.

(b) The Legislature, therefore, intends by this chapter to ensure the transmission of necessary information to employees regarding the properties and potential hazards of hazardous substances in the workplace.

6362. The rights and duties set forth in this chapter apply to all employers who use hazardous substances in this state, to any person who sells a hazardous substance to any employer in this state, and to manufacturers who produce or sell hazardous substances in this state. The provisions of this chapter apply to hazardous substances which are present in the workplace as a result of workplace operations in such a manner that employees may be exposed under normal conditions of work or in a reasonably foreseeable emergency resulting from workplace operations. For purposes of this chapter, an emergency includes, but is not limited to, equipment failure, rupture of containers, or failure of control equipment, which may or do result in a release of a hazardous substance into the workplace.

6363. Nothing in this chapter shall be construed to require a manufacturer or employer to conduct studies to develop new information.

Article 2. Definitions

6365. Unless the context otherwise requires, the definitions in this article and the provisions of Article 1 shall govern the construction of provisions of this chapter.

6366. "CAS number" means the unique identification number assigned by the Chemical Abstracts Service to specific chemical substances.

6367. "Chemical name" is the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

6368. "Common name" means any designation or identification such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

6370. "Expose" or "exposure" means any situation arising from work operation where an employee may ingest, inhale, absorb through the skin or eyes, or otherwise come into contact with a hazardous substance; provided, that such contact shall not be deemed to constitute exposure if the hazardous substance present is in a physical state, volume, or concentration for which it has been determined pursuant to Sections 6382 and 6390 that there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from such contact.

6371. "Impurity" means a hazardous substance which is unintentionally present with another substance or mixture.

6372. "Manufacturer" means a person who produces, synthesizes, extracts, or otherwise makes a hazardous substance.

6373. "Mixture" means any solution or intimate admixture of two or more substances, at least one of which is present as a hazardous substance, as designated pursuant to Sections 6382 and 6383, which do not react chemically with each other.

6374. "MSDS" means a material safety data sheet prepared pursuant to Section 6390. A label in 8-point or larger type, prepared pursuant to Section 6390, shall constitute an MSDS for the purposes of this chapter.

Article 3. Hazardous Substances

6380. For the purposes of this chapter, the director, pursuant to Section 6382, shall establish a list of hazardous substances and shall make the list available to manufacturers, employers, and the public. Substances on the list shall be designated by their chemical and common name or names. The director shall adopt, amend, and repeal regulations for the establishment of the list of hazardous substances pursuant to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

6380.5. (a) Prior to the director's adoption of the list of

hazardous substances, the director shall submit the list to the Occupational Safety and Health Standards Board for its approval. Within 90 days of receiving the list from the director, the board, after holding a hearing and considering the recommendations of the employers and employees who may be affected, shall do the following:

(1) Determine whether the substances listed are properly listed as hazardous substances pursuant to the criteria of Section 6382.

(2) Modify the list as necessary to achieve compliance with Section 6382.

(3) Approve the list of hazardous substances.

Upon receipt of the list approved by the board, the director shall adopt the list as a regulation pursuant to the procedures set forth in Section 6380. The inclusion or exclusion of any individual substance on the list of hazardous substances shall not be subject to Section 11346.6 or 11346.7 of the Government Code.

(b) Prior to the director's adoption of any additions to the list of hazardous substances pursuant to subdivision (c) of Section 6382, the director shall submit the additions to the board for its approval. Within 60 days of receiving the additions from the director, the board, after holding a hearing and considering the recommendations of the employers and employees who may be affected, shall do the following:

(1) Determine whether the substances listed are properly listed as hazardous substances pursuant to the criteria of Section 6382.

(2) Modify the additions as necessary to achieve compliance with Section 6382.

(3) Approve the list of hazardous substances.

Upon receipt of the additions approved by the board, the director shall adopt the additions as a regulation pursuant to the procedures set forth in Section 6380. The inclusion or exclusion of any individual substance on the list of hazardous substances shall not be subject to Section 11346.6 or 11346.7 of the Government Code.

6381. Substances not present on the list of hazardous substances adopted pursuant to Section 6380 shall not be subject to the provisions of this chapter. However, the absence of designation as a hazardous substance in the list adopted pursuant to Section 6380 shall not in any way affect any other liability of an employer with regard to safeguarding the health and safety of an employee or other persons exposed to a toxic or hazardous substance; nor shall it affect any other duty or responsibility of a manufacturer, producer, or other maker to warn ultimate users of a substance pursuant to other provisions of law.

6382. The director shall prepare and amend the list of hazardous substances according to the following procedure:

(a) Any substance designated in any of the following listings in subdivision (b) shall be presumed by the director to be potentially hazardous and shall be included on the list; provided, that the director shall not list a substance or form of the substance from the

listings in subdivision (b) if he or she finds, upon a showing pursuant to the procedures set forth in Section 6380, that the substance as present occupationally is not potentially hazardous to human health; and provided further, that a substance, mixture, or product shall not be considered hazardous to the extent that the hazardous substance present is in a physical state, volume, or concentration for which there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from exposure.

(b) The listings referred to in subdivision (a) are as follows:

(1) Substances listed as human or animal carcinogens by the International Agency for Research on Cancer (IARC).

(2) Those substances designated by the federal Environmental Protection Agency pursuant to Section 307 (33 U.S.C. Sec. 1317) and Section 311 (33 U.S.C. Sec. 1321) of the federal Clean Water Act of 1977 (33 U.S.C. Sec. 1251, et seq.) or as hazardous air pollutants pursuant to Section 112 of the federal Clean Air Act, as amended (42 U.S.C. Sec. 7412) which have known, adverse human health risks.

(3) Substances listed by the Occupational Safety and Health Standards Board as an airborne chemical contaminant pursuant to Section 142.3 of the Labor Code.

(4) Those substances designated by the Director of Food and Agriculture as restricted materials pursuant to Section 14004.5 of the Food and Agricultural Code which have known, adverse human health risks.

(5) Substances for which an information alert has been issued by the repository of current data established pursuant to Section 147.2.

(c) The director shall at least annually review the listings in subdivision (b) and shall revise the list to include new substances so listed or exclude substances no longer on such listings, pursuant to the standards set forth in subdivision (a).

6383. (a) For the purposes of this chapter, a hazardous substance is present in any mixture or product if it is 1 percent or more of the mixture or product or 2 percent if the hazardous substance exists as an impurity in the mixture, provided that the director may, by regulation, raise the concentration requirement for a hazardous substance which the director finds is not hazardous at the threshold levels; and, lower the concentration requirement for a hazardous substance for which there is valid and substantial evidence that the substance is extraordinarily hazardous.

(b) The manufacturer of a hazardous substance shall notify the director of any valid evidence which indicates that the concentration requirement for a hazardous substance established pursuant to subdivision (a) is higher than what is necessary to protect employees who work with, or may be exposed to, the substance.

6384. This chapter does not apply to impurities which develop as intermediate materials during chemical processing but are not present in the final product, and to which employee exposure is unlikely.

6385. The provisions of this chapter do not apply to hazardous

substances contained in either of the following:

(a) Products intended for personal consumption by employees in the workplace, or consumer products packaged for distribution to, and use by, the general public.

(b) Retail food sale establishments and all other retail trade establishments, exclusive of processing and repair work areas.

6386. A laboratory in which a hazardous substance is used by or under the direct supervision of a technically qualified individual is not an employer or manufacturer for the purposes of this chapter. This exemption does not include a laboratory that primarily provides a quality control analysis for a manufacturing process or produces hazardous substances for commercial purposes.

"Technically qualified individual" means a person who, because of education, training, or experience, understands the health risks associated with the hazardous substance or mixture handled by or under his or her supervision.

Article 4. Duties

6390. The manufacturer of any hazardous substance listed pursuant to the provisions of Section 6380 shall prepare and provide its direct purchasers of the hazardous substance with an MSDS containing the information specified in Section 6391 which, to the best of the manufacturer's knowledge, is current, accurate, and complete, based on information then reasonably available to the manufacturer. For purposes of this section, a substance, mixture, or product shall not be considered a hazardous substance if present in a physical state, volume, or concentration for which there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from exposure. The manufacturer shall revise an MSDS on a timely basis as appropriate to the importance of any new information which would affect the contents of the existing MSDS, and in any event within one year of such information becoming available to the manufacturer. If the new information indicates significantly increased risks to, or measures necessary to protect, employee health, as compared to those stated on the MSDS previously provided, the manufacturer shall provide such new information to persons who have purchased the product directly from the manufacturer within the last year.

6391. The information which manufacturers shall provide to their purchasers pursuant to the provisions of Section 6390 shall include the following, if pertinent:

(a) The chemical name, any common names, and the CAS number of the hazardous substance.

(b) The hazards or other risks in the use of the hazardous substance, including:

(1) The potential for fire, explosion, and reactivity.

(2) The acute and chronic health effects or risks from exposure.

(3) The potential routes of exposure and symptoms of

overexposure.

(c) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the hazardous substance.

(d) The emergency procedures for spills, fire, disposal and first aid.

(e) A description in lay terms, if not otherwise provided, on either a separate sheet or with the body of the information specified in this section, of the specific potential health risks posed by the hazardous substance intended to alert any person reading the information.

(f) The month and year that the information was compiled and, for an MSDS issued after January 1, 1981, the name and address of the manufacturer responsible for preparing the information.

6392. Provision of a federal OSHA Form 20 Material Safety Data Sheet or equivalent shall constitute prima facie proof of compliance with Section 6390.

6393. The manufacturer shall be relieved of the obligation to provide a specific purchaser of a hazardous substance with an MSDS pursuant to Section 6390 if the manufacturer has a record of having provided the specific purchaser with the most current version of the MSDS, if the product is labelled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended; or if the product is one sold at retail and is incidentally sold to an employer or the employer's employees, in the same form, approximate amount, concentration, and manner as it is sold to consumers, and, to the seller's knowledge, employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product. Except for products so labelled, the provisions of this section do not relieve the manufacturer of the requirement to provide direct purchasers with new, revised, or later information or MSDS pursuant to the provisions of Section 6390.

6394. The preparer of an MSDS shall provide the department with a copy of the MSDS on each hazardous substance it manufactures.

6395. (a) The manufacturer may provide the information required by Section 6390 on an entire product mixture, instead of on each hazardous substance in it, when all of the following conditions exist:

(1) Hazard test information exists on the mixture itself, or adequate information exists to form a valid judgment of the hazardous properties of the mixture itself and the MSDS indicates that the information presented and the conclusions drawn are from some source other than direct test data on the mixture itself, and that an MSDS on each constituent hazardous substance identified on the MSDS is available upon request.

(2) Provision of information on the mixture will be as effective in protecting employee health as information on the ingredients.

(3) The hazardous substances in the mixture are identified on the MSDS unless it is either unfeasible to describe all the ingredients in

the mixture or the identity of the ingredients is itself a valid trade secret, in either case the reason why the hazardous substances in the mixture are not identified shall be stated on the MSDS.

(b) A single mixture MSDS may be provided for more than one formulation of a product mixture if the information provided pursuant to Section 6390 does not vary for the formulation.

6396. (a) The Director of Industrial Relations shall protect from disclosure any and all trade secrets coming into his possession, as defined in subdivision (d) of Section 6254.7 of the Government Code, when requested in writing or by appropriate stamping or marking of documents by the manufacturer or producer of a mixture.

(b) Any information reported to or otherwise obtained by the Director of Industrial Relations, or any of his representatives or employeees, which is exempt from disclosure under subdivision (a), shall not be disclosed to anyone except an officer or employee of the State of California or of the United States of America, in connection with the official duties of such officer or employee under any law for the protection of health, or to contractors with the State of California and their employees if in the opinion of the director such disclosure is necessary and required for the satisfactory performance of a contract for performance of work in connection with this act.

(c) Any officer or employee of the State of California, or former officer or employee, who by virtue of such employment or official position has obtained possession of or has access to material the disclosure of which is prohibited by this section, and who knowing that disclosure of the material is prohibited, knowingly and willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor. Any contractor with the State of California and any employee of such contractor, who has been furnished information as authorized by this section, shall be considered to be an employee of the State of California for purposes of this section.

(d) Information certified to by appropriate officials of the United States, as necessarily kept secret for national defense purposes, shall be accorded the full protections against disclosure as specified by such official or in accordance with the laws of the United States.

(e) (1) The director, upon his or her own initiative, or upon receipt of a request pursuant to the California Public Records Act, (Chapter 3.5 (commencing with Section 6250) Division 7, Title 1, Gov. C.) for the release of data submitted and designated as a trade secret by an employer, manufacturer, or producer of a mixture, shall determine whether any or all of the data so submitted are a properly designated trade secret.

(2) If the director determines that the data is not a trade secret, the director shall notify the employer, manufacturer, or producer of a mixture by certified mail.

(3) The employer, manufacturer, or producer of a mixture shall have 15 days after receipt of notification to provide the director with a complete justification and statement of the grounds on which the

trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(4) The director shall determine whether such data are protected as a trade secret within 15 days after receipt of the justification and statement, or if no justification and statement is filed, within 30 days of the original notice, and shall notify the employer or manufacturer and any party who has requested the data pursuant to the California Public Records Act of that determination by certified mail. If the director determines that the data are not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to the public.

(5) Prior to the date specified in the final notice, an employer, manufacturer, or producer of a mixture may institute an action in an appropriate superior court for a declaratory judgment as to whether such data are subjected to protection under subdivision (a).

(f) The provisions of this section shall not permit a manufacturer to refuse to disclose information required pursuant to this chapter to the director.

6397. (a) Any person other than a manufacturer who sells a mixture or any hazardous substance shall provide its direct purchasers of the mixture or hazardous substance at the time of sale with a copy of the most recent MSDS or equivalent information prepared and supplied to the person pursuant to either Section 6390 or subdivision (b) whenever it is foreseeable that the provisions of this chapter may apply to the purchaser.

(b) Any person who produces a mixture may, for the purposes of this section, prepare and use a mixture MSDS, subject to the provisions of Section 6395.

(c) Any person subject to the provisions of subdivision (a) shall be relieved of the obligation to provide a specific purchaser of a hazardous substance with an MSDS if he or she has a record of having provided the specific purchaser with the most recent version of the MSDS, if the product is labelled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, or if the product is one sold at retail and is incidentally sold to an employer or the employer's employees, in the same form, approximate amount, concentration, and manner as it is sold to consumers, and, to the seller's knowledge, employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product.

6398. The Occupational Safety and Health Standards Board shall adopt a standard setting forth an employer's duties toward its employees under this chapter, on or before July 1, 1981, consistent with the following guidelines:

(a) An MSDS shall be available to an employee, collective bargaining representative, or the employee's physician, on a timely and reasonable basis, on substances in the workplace.

(b) Employers shall furnish employees who may be exposed to a

hazardous substance with information on the contents of the MSDS for the hazardous substances or equivalent information, either in written form or through training programs, which may be generic to the extent appropriate and related to the job.

(c) Provision shall be made for employees to be informed of their rights under this chapter and under the standard to be adopted.

6399. Upon request, the manufacturer of a hazardous substance or the producer of a mixture who has produced a mixture MSDS pursuant to the provisions of subdivision (b) of Section 6397 shall make available to any employer, whose employees may be exposed to its product in the workplace, an MSDS on its product. If the employer does not already have an MSDS and has not already made written inquiry within 12 months as to whether a substance or product is subject to the requirements of this chapter or if the employer has not already made written inquiry within 6 months as to whether any new, revised, or later information has been issued for a hazardous substance, the employer shall do so within seven working days of a request to do so by an employee or employee's collective bargaining representative or physician. The employer may adopt reasonable procedures for acting upon such employee requests to avoid interruption of normal work operations. The manufacturer or the producer of a mixture MSDS pursuant to the provisions of Section 6397 shall answer such inquiries within 15 working days of their receipt, stating that the substance or product is subject to the requirements of this chapter and furnishing the most current MSDS or a statement that the MSDS is under development and the estimated completion date, or stating that it is not subject to the requirements of this chapter, with a brief explanation of why the chapter is not applicable. If an employer has not received a response from a manufacturer within 25 working days of the date the request was made, the employer shall send a copy of the request made of the manufacturer to the director with the notation that no response has been received.

6399.1. Compliance with regulations of the Director of Food and Agriculture issued pursuant to Section 12981 of the Food and Agricultural Code shall be deemed compliance with the obligations of an employer toward his or her employees under this chapter.

6399.2. This article shall become operative 180 days after adoption of the initial list of hazardous substances pursuant to Article 3 (commencing with Section 6380).

Article 5. Liability and Remedies

6399.5. The provisions of this chapter regarding manufacturers, employers, and persons subject to the provisions of Section 6397, shall be enforced pursuant to the provisions of this division pertaining to enforcement of standards adopted under Section 142.3.

6399.6. The provision of information to an employee pursuant to the provisions of this chapter shall not in any way affect any other

liability of an employer with regard to safeguarding the health and safety of an employee or other persons exposed to a toxic or hazardous substance; nor shall it affect any other duty or responsibility of a manufacturer, producer, or other maker to warn ultimate users of a substance pursuant to other provisions of law.

6399.7. No person shall discharge or in any manner discriminate against, any employee because such employee has filed any complaint or has instituted, or caused to be instituted, any proceeding under or related to the provisions of this chapter, or has testified, or is about to testify, in any such proceeding, or because of the exercise of any right afforded pursuant to the provisions of this chapter on such employee's behalf or on behalf of others, nor shall any pay, seniority, or other benefits be lost for exercise of any such right. A violation of the provisions of this section shall be a violation of the provisions of Section 6310.

Article 6. Repeal

6399.9. This chapter shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 875

An act to amend Sections 25606 and 25651 of, and to add Section 25611 to, the Health and Safety Code, and to amend Sections 2400 and 27903 of, to add Section 33002 to, and to repeal and add Section 33000 of, the Vehicle Code, relating to radioactive materials.

[Approved by Governor September 10, 1980. Filed with Secretary of State September 10, 1980.]

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

SECTION 1. Section 25606 of the Health and Safety Code is amended to read:

25606. The department shall maintain surveillance over the storage, packaging, transporting, and loading of radioactive material within this state regardless of such material's ultimate destination. In carrying out its duties under this section, the department shall enter

into agreement with the Division of Occupational Safety and Health, and may enter into agreement with other state and local agencies, to conduct any appropriate inspection and enforcement activities. Any agreement with state and local agencies shall not duplicate work to be done pursuant to agreement with the Division of Occupational Safety and Health, nor shall work done by the Division of Occupational Safety and Health duplicate work agreed to be done by other state and local agencies. Licensees of the federal Nuclear Regulatory Commission and the facilities of the federal Department of Energy and the federal Department of Defense are exempt from the provisions of this section.

SEC. 1.5. Section 25611 is added to the Health and Safety Code, to read:

25611. Any regulations relating to radioactive material cargo, including, but not limited to, packing, marking, loading, handling, and transportation, shall be reviewed and made compatible with the federal regulations adopted pursuant to the federal Department of Transportation Docket No. HM-164, Notice No. 80-1, within 60 days of the date such federal regulations become effective.

SEC. 2. Section 25651 of the Health and Safety Code is amended to read:

25651. (a) The department, with the assistance of the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol shall, with respect to any fissile radioactive material coming within the definition of "fissile class II," "fissile class III," "large quantity radioactive materials," or "low-level radioactive waste" provided by the regulations of the United States Department of Transportation (49 C.F.R. 173.389), do all of the following:

(1) Study the adequacy of current packaging requirements for radioactive materials.

(2) Study the effectiveness of special routing and timing of radioactive materials shipments for the protection of the public health.

(3) Study the advantages of establishing a tracking system for shipments of most hazardous radioactive materials.

(b) A report on these studies, together with recommendations for any necessary changes in transportation regulations, shall be submitted by the department to the Legislature on or before July 1, 1982.

(c) The department, with the assistance of the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol, shall extend the nuclear threat emergency response plan to include radioactive materials in transit and provide training for law enforcement officers in dealing with such threats.

(d) Subject to the provisions of Section 25611, the department, in cooperation with the California Highway Patrol, shall adopt, in accordance with the provisions of Chapter 4.5 (commencing with

Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations which, in the judgment of the department, shall promote the safe transportation of radioactive materials. Such regulations shall (1) prescribe the use of signs designating radioactive material cargo; shall designate, in accordance with the results of the studies done pursuant to subdivision (a), the manner in which the shipper shall give notice of such shipment to appropriate authorities; (2) prescribe the packing, marking, loading, and handling of radioactive materials, and the precautions necessary to determine whether the material when offered is in proper condition to transport, but shall not include the equipment and operation of the carrier vehicle; and (3) be reviewed and amended, as required, pursuant to the provisions of Section 25611. Such regulations shall be compatible with those established by the federal agency or agencies required or permitted by federal law to establish such regulations.

(e) Subject to the provisions of Section 25611, the Department of the California Highway Patrol, after consulting with the department, shall adopt regulations specifying the time at which shipments may occur and the routes which are to be used in the transportation of cargoes of hazardous radioactive materials, as such materials are defined in regulations of the department.

SEC. 3. Section 2400 of the Vehicle Code is amended to read:

2400. The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000), except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.5 (commencing with Section 33000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property.

The commissioner shall not be required to provide patrol for or enforce any provisions of Division 16.5 (commencing with Section 38000).

The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of such provisions and laws, and for the investigation of traffic accidents, on all state highways constructed as freeways within incorporated areas

of the state; provided, however, that city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on state freeways. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles city, police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of such laws and ordinances, unless the city council of any such city shall by resolution request administration and enforcement of such laws by the commissioner.

SEC. 4. Section 27903 of the Vehicle Code is amended to read:

27903. Subject to the provisions of Section 25611 of the Health and Safety Code, any vehicle transporting any explosive, blasting agent, flammable liquid, flammable solid, oxidizing material, corrosive, compressed gas, poison, radioactive material, or other hazardous materials, of such type and in such quantities as to require the display of placards or markings on the vehicle exterior by the United States Department of Transportation regulations (49 C.F.R., Parts 172, 173, and 177), shall display such placards and markings in the manner and under conditions prescribed by such regulations of the United States Department of Transportation.

This section does not apply if the vehicles are transporting not more than 20 pounds of smokeless powder or not more than five pounds of black sporting powder or any combination thereof.

SEC. 5. Section 33000 of the Vehicle Code is repealed.

SEC. 6. Section 33000 is added to the Vehicle Code, to read:

33000. Subject to the provisions of Section 25611 of the Health and Safety Code, the Department of the California Highway Patrol, after consulting with the State Department of Health Services, shall adopt regulations specifying the time at which shipments may occur and the routes which are to be used in the transportation of cargoes of hazardous radioactive materials, as such materials are defined in regulations of the State Department of Health Services.

SEC. 7. Section 33002 is added to the Vehicle Code, to read:

33002. The Department of the California Highway Patrol shall be notified by the carrier not later than 72 hours prior to the transportation of hazardous radioactive materials containing cargoes of commercially produced, spent radioactive fuel.

SEC. 8. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 876

An act to amend Sections 25188, 25189, and 25191 of, and to add Sections 25193, 25194, 25194.5, and 25200.5 to, and to repeal Section 25190 of, the Health and Safety Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1980 Filed with Secretary of State September 10, 1980.]

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

SECTION 1. Section 25188 of the Health and Safety Code is amended to read:

25188. Any person subject to a schedule for compliance issued pursuant to Section 25187 who does not comply with that schedule shall be subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each day of noncompliance.

SEC. 2. Section 25189 of the Health and Safety Code is amended to read:

25189. (a) Any person who intentionally or negligently makes any false statement or representation in any application, label, manifest, record, report, permit, or other document, filed, maintained, or used for purposes of compliance with this chapter, shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing intentional violations, for each day that violation continues.

(b) Except as provided in subdivision (c), any person who intentionally or negligently violates any provision of this chapter or any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter, shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) for each violation of a separate provision or, for continuing intentional violations, for each day that violation continues.

(c) Any person who intentionally or negligently disposes of any hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to such persons as the court may direct. Each day on which such deposit remains and such person has knowledge thereof is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the director or a court of competent jurisdiction for such cleanup.

(d) Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of

law.

SEC. 3. Section 25190 of the Health and Safety Code is repealed.

SEC. 4. Section 25191 of the Health and Safety Code is amended to read:

25191. Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person under this section, such person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not to exceed one year, or by a fine of not more than fifty thousand dollars ($50,000) per day of violation, or by both such fine and imprisonment.

(a) Transports any hazardous waste to a facility which does not have a permit from the department issued pursuant to this chapter, or to any point which is not authorized according to the provisions of this chapter.

(b) Treats, stores, or disposes of any hazardous waste at a facility which does not have a permit from the department issued pursuant to the provisions of this chapter, or at any point which is not authorized according to the provisions of this chapter.

(c) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(d) Withholds information regarding a real and substantial danger to the public health or safety when such information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to the provisions of this chapter in response to a real and substantial danger.

SEC. 5. Section 25193 is added to the Health and Safety Code, to read:

25193. The remedies provided by this chapter are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts.

SEC. 6. Section 25194 is added to the Health and Safety Code, to read:

25194. Any action brought by or for the director pursuant to this chapter against a person shall not abate by reason of a sale or other transfer of ownership, except with the express written consent of the director.

SEC. 7. Section 25194.5 is added to the Health and Safety Code, to read:

25194.5. (a) The withdrawal of an application for a permit for a facility that has treated, stored, or disposed of hazardous waste after it has been filed with the department shall not, unless the

department consents in writing to such withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the permit upon any ground provided by law or to enter an order denying the permit upon any such ground, and such a withdrawal shall not affect the authority of the department to institute or continue a proceeding against the applicant pertaining to any violation of this chapter or any rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter.

(b) The suspension, expiration, or forfeiture by operation of law of a permit issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court, or its surrender or attempted or actual transfer without the written consent of the department shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the holder of a permit upon any ground, or of its authority to enter an order suspending or revoking the permit, or otherwise taking an action against the holder or a permit on any such ground.

SEC. 8. Section 25200.5 is added to the Health and Safety Code, to read:

25200.5. (a) Any person who desires to continue use or operation of a hazardous waste facility pending the review and decision of the department on the permit application, may be granted interim status by the department provided that the person has made application for a permit pursuant to Section 25200.

(b) The person operating under an interim status pursuant to this section shall not do any of the following acts:

(1) Treat, store, or dispose of hazardous wastes which are not identified.

(2) Employ processes not described in the permit application.

(3) Make substantial modifications or additions to the facility.

(c) A facility operating under interim status is not subject to civil or criminal penalties for operating without a permit, but is otherwise subject to the provisions of this chapter and the rules, regulations, standards, and requirements issued or promulgated pursuant to the provisions of this chapter. Interim status may be granted subject to any conditions which the department deems necessary to protect public health or the environment. Interim status shall not be valid beyond the date of the decision of the department on the permit application.

(d) The department shall not grant interim status to any person who has been denied a hazardous waste facility permit or who has had a hazardous waste facility permit suspended or revoked.

SEC. 9. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or chool district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction.

Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Abatement and cleanup of hazardous waste which is a hazard to the public health, the environment, and wildlife is a major and growing problem of our industrial society. Indiscriminate and unlawful disposal has caused, and will cause, major cleanup problems and expense which the disposer will escape. In order to recover all of the costs of cleanup against unlawful hazardous waste disposers and deter future health hazards from such wrongful disposal at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 877

An act to amend Sections 13050 and 13350 of, and to add Section 13271 to, the Water Code, and to add Section 25204 to the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 10, 1980 Filed with Secretary of State September 10, 1980.]

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

SECTION 1. Section 13050 of the Water Code is amended to read:

13050. As used in this division:

(a) "State board" means the State Water Resources Control Board.

(b) "Regional board" means any California regional water quality control board for a region as specified in Section 13200.

(c) "Person" also includes any city, county, district, the state or any department or agency thereof. "Person" includes the United States, to the extent authorized by federal law.

(d) "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

(e) "Waters of the state" means any water, surface or underground, including saline waters, within the boundaries of the state.

(f) "Beneficial uses" of the waters of the state that may be

protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

(g) "Quality of the water" or "quality of the waters" refers to chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.

(h) "Water quality objectives" means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

(i) "Water quality control" means the regulation of any activity or factor which may affect the quality of the waters of the state and includes the prevention and correction of water pollution and nuisance.

(j) "Water quality control plan" consists of a designation or establishment for the waters within a specified area of (1) beneficial uses to be protected, (2) water quality objectives, and (3) a program of implementation needed for achieving water quality objectives.

(k) "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" shall include any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

(*l*) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects: (1) such waters for beneficial uses, or (2) facilities which serve such beneficial uses. "Pollution" may include "contamination."

(m) "Nuisance" means anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and (3) occurs during or as a result of the treatment or disposal of wastes.

(n) "Reclaimed water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur.

(o) "Citizen or domiciliary" of the State of California includes a foreign corporation having substantial business contacts in the State of California or which is subject to service of process in this state.

(p) (1) "Hazardous substance" means either of the following:

(A) For discharge to surface waters, any substance determined to be a hazardous substance pursuant to Section 311 (b) (2) of the Clean Water Act (33 U.S.C. Section 1251 et seq.).

(B) For discharge to groundwater, any substance listed as a

hazardous waste or hazardous material pursuant to Section 25140 of the Health and Safety Code, without regard to whether such substance is intended to be used, reused, or discarded, except that "hazardous substance" shall not include any substance excluded from the applicability of Section 311(b)(2) of the Clean Water Act because it is within the scope of Section 311(a)(1) of the Clean Water Act.

(2) "Hazardous substance" does not include any of the following:

(A) Nontoxic, nonflammable, noncorrosive stormwater runoff drained from underground vaults, chambers, or manholes into gutters or storm sewers.

(B) Any pesticide which is applied for agricultural purposes or is applied in accordance with a cooperative agreement authorized by Section 2426 of the Health and Safety Code, and is not discharged accidentally or for purposes of disposal, the application of which is in compliance with all applicable state and federal laws and regulations.

(C) Any discharge to surface water of a quantity less than a reportable quantity as determined by regulations issued pursuant to Section 311(b)(4) of the Clean Water Act.

(D) Any discharge to land which results or probably will result in a discharge to groundwater where the amount of the discharge to land is less than a reportable quantity, as determined by regulations issued pursuant to Section 13271, for substances listed as hazardous pursuant to Section 25140 of the Health and Safety Code. No discharge shall be deemed a discharge of a reportable quantity until regulations set a reportable quantity for the substance discharged.

SEC. 2. Section 13271 is added to the Water Code, to read:

13271. (a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) such person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.7) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars ($20,000), or imprisonment of not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge

to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of such notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) Immediate notification of an appropriate agency of the federal government of the discharge shall constitute compliance with the requirements of subdivision (a).

(f) Immediate notification of the appropriate regional board of the discharge, in accordance with reporting requirements set under Section 13267 or 13383, shall constitute compliance with the requirements of subdivision (a).

(g) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board in consultation with the State Department of Health Services shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the State Department of Health Services pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

SEC. 3. Section 13350 of the Water Code is amended to read:

13350. (a) Any person who (1) intentionally or negligently violates any cease and desist order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement or other order or prohibition issued, reissued, or amended by a regional board or the state board, intentionally or negligently discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other provisions of this division, may be liable civilly in a sum of not to exceed six thousand dollars ($6,000) for each day in which such violation or deposit occurs.

(b) Any person who, without regard to intent or negligence, causes or permits any hazardous substance to be discharged in or on any of the waters of the state where it creates a condition of pollution or nuisance, except in accordance with waste discharge requirements or other provisions of this division, shall be strictly liable civilly in a sum of not to exceed six thousand dollars ($6,000)

per day of discharge.

For purposes of this subdivision, the term "discharge" includes only those discharges for which Section 13260 directs that a report of waste discharge shall be filed with the regional board.

For purposes of this subdivision, the term "discharge" does not include any emission excluded from the applicability of Section 311 of the Clean Water Act (33 U.S.C. Section 1251 et seq.) pursuant to Environmental Protection Agency regulations interpreting Section 311(a)(2) of the Clean Water Act.

(c) There shall be no liability under subdivision (b) if the discharge is caused solely by any one or combination of the following:

(1) An act of war.

(2) An unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(3) Negligence on the part of the state, the United States, or any department or agency thereof; provided, that this paragraph shall not be interpreted to provide the state, the United States, or any department or agency thereof a defense to liability for any discharge caused by its own negligence.

(4) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(5) Any other circumstance or event which causes the discharge despite the exercise of every reasonable precaution to prevent or mitigate the discharge.

(d) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose, assess, and recover such sums. Except in the case of a violation of a cease and desist order, a regional board or the state board shall make such request only after a hearing, with due notice of the hearing given to all affected persons. In determining such amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, taken by the discharger.

(e) The provisions of Article 3 (commencing with Section 13330) and Article 6 (commencing with Section 13360) of this chapter shall apply to proceedings to impose, assess, and recover an amount pursuant to this article.

(f) Any person who pays any liability established under this section shall be entitled to contribution for such liability from any third party, in an action in the superior court and upon proof that the discharge was caused in whole or in part by an act or omission of the third party, to the extent that the discharge is caused by the act or omission of the third party, in accordance with the principles of comparative fault.

(g) Remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal; provided that no liability shall be recoverable under subdivision (b) for any discharge for which liability is recovered under Section 13385.

SEC. 4. Section 25204 is added to the Health and Safety Code, to read:

25204. Notwithstanding any other provision of law, no state agency may refuse to issue a permit or license for a hazardous waste facility on the grounds that the applicant has not been granted a local land use permit; provided, however, that in issuing the permit or license the state agency may provide that the permit or license shall not become effective until the applicant is granted a local land use permit.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 878

An act to amend Sections 25116, 25119, 25121, 25122, 25185, and 25201 of, and to add Sections 25121.5, 25122.5, 25123.5, and 25195 to, and to repeal Sections 25120 and 25124 of, the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 10, 1980 Filed with Secretary of State September 10, 1980]

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

SECTION 1. Section 25116 of the Health and Safety Code is amended to read:

25116. "Handling" means the transporting or transferring from one place to another, or pumping, processing, storing, or packaging of hazardous waste, but does not include the handling of any substance before it becomes a waste.

SEC. 2. Section 25119 of the Health and Safety Code is amended to read:

25119. "Processing" means treatment, as defined in Section 25123.5.

SEC. 3. Section 25120 of the Health and Safety Code is repealed.

SEC. 4. Section 25121 of the Health and Safety Code is amended

to read:

25121. "Recycle" means to redirect or utilize a hazardous waste or a substance from a hazardous waste, and includes recovery of resources from a hazardous waste.

SEC. 5. Section 25121.5 is added to the Health and Safety Code, to read:

25121.5. "Retrograde material" means any hazardous material which is not to be used, sold, or distributed for use in an originally intended or prescribed manner or for an originally intended or prescribed purpose for any of the following reasons:

(a) It has undergone chemical, biochemical, physical, or other changes.

(b) It has exceeded a specified or recommended shelf life.

(c) It is banned by law, regulation, ordinance, or decree.

(d) It cannot be used for reasons of economics, health or safety, or environmental hazard.

(e) It is mislabeled or is not adequately labeled, or is otherwise not identified or identifiable.

(f) It is packaged in deteriorated or damaged containers.

SEC. 6. Section 25122 of the Health and Safety Code is amended to read:

25122. "Waste" means either of the following:

(a) Any material for which no use or reuse is intended and which is to be discarded.

(b) Any recyclable material.

SEC. 7. Section 25122.5 is added to the Health and Safety Code, to read:

25122.5. (a) "Recyclable material" means any material that would be considered a hazardous waste but for the fact that both of the following conditions exist:

(1) Some use or reuse of such material may be intended and can be demonstrated.

(2) Such material is either of the following:

(A) A spent, contaminated, or used material, or a process effluent or residue, which has been transferred by the producer of such material, effluent, or residue to an unrelated or unaffiliated person for both of the following purposes:

(i) Recycling or treatment.

(ii) Subsequent sale.

(B) Any retrograde material that has not been used or reclaimed through treatment by the original manufacturer or owner by the later of the following dates:

(i) One year of the date when such material became a retrograde material.

(ii) One year after return to the original manufacturer.

(b) "Recyclable material" does not include any of the following:

(1) A chemical intermediate.

(2) A byproduct that in its existing state meets all of the following requirements:

(A) Has a commercial use.

(B) Is ordinarily used as a commodity in trade by the industrial or agricultural community.

(C) The reclamation operation poses no significant hazard to public health and safety, or to domestic livestock, wildlife, or the environment.

(3) A material that is routinely reclaimed by a third party for reuse by the original manufacturer of the material.

(4) A material that is routinely reclaimed by an original manufacturer of such material, provided the reclamation is only a portion of such original manufacturer's normal production of such material.

SEC. 8. Section 25123.5 is added to the Health and Safety Code, to read:

25123.5. "Treatment" means any method, technique, or process which changes the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or removes or reduces its harmful properties or characteristics for any purpose.

SEC. 9. Section 25124 of the Health and Safety Code is repealed.

SEC. 10. Section 25185 of the Health and Safety Code is amended to read:

25185. (a) In order to carry out the purposes of this chapter, any duly authorized representative of the department or of the local health officer may, at any reasonable hour of the day, do any of the following:

(1) Enter and inspect a factory, plant, construction site, waste disposal site, transfer station, establishment or any other place or environment where hazardous wastes are stored, handled, processed, disposed of, or being treated to recover resources.

(2) Obtain from any individual authorized by the operator, or from the property of any person, as defined in Section 25118, samples of waste, including samples from any vehicle in which wastes are being transported. However, upon request, split samples shall be given to the person from whom, or from whose property, such samples were obtained.

(3) Stop and inspect any vehicle reasonably suspected of transporting hazardous wastes when accompanied by a uniformed police officer in a clearly marked vehicle.

(4) Inspect and copy any records, reports, test results, or other information required to carry out the provisions of this chapter.

(5) Photograph any waste, waste container, waste container label, vehicle, waste treatment process, waste disposal site, or violation found during an inspection.

(b) During the inspection, the inspector shall comply with all reasonable security, safety, and sanitation measures. In addition, the inspector shall comply with reasonable precautionary measures specified by the operator.

(c) A report listing any violations found during the inspection

shall be prepared by the inspector and shall be kept on file in the department. A copy of the report shall be provided to the operator.

(d) Whenever photographs have been taken pursuant to paragraph (5) of subdivision (a), the department shall comply with all procedures established pursuant to Section 25173 and shall notify the person whose facility was photographed prior to public disclosure of such photographs, and, upon request of that person, shall submit a copy of any photograph to such person for the purpose of determining whether trade secret information, as defined in Section 25173, or facility security would be revealed by the photograph. "Public disclosure," as used in this section, shall not include review of the photographs by a court of competent jurisdiction or an administrative law judge. Such review may be conducted in camera at the discretion of the court or judge.

(e) "Local health officer," as used in this section, means county health officers, city health officers, and district health officers, as defined in this code.

SEC. 11. Section 25195 is added to the Health and Safety Code, to read:

25195. It is a misdemeanor for any person to do any of the following:

(a) Willfully prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the department in the lawful enforcement of any provision of this chapter.

(b) Willfully prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of his or her official duties under this chapter.

(c) Willfully prevent or interfere with any such representative in the preserving of evidence of any violation of any of the provisions of this chapter or of the rules and regulations promulgated pursuant to this chapter.

SEC. 12. Section 25201 of the Health and Safety Code is amended to read:

25201. Three months after the department adopts standards and requirements pursuant to Section 25150, no operator of a treatment facility, waste transfer station, waste storage area, resource recovery facility, or waste disposal site shall accept, treat, store for more than 60 days, or dispose of a hazardous waste at such facility, station, area, or site unless the operator holds a hazardous waste facilities permit from the department to use and operate such facility, station, area, or site.

SEC. 13. The amendment of Section 25122 of the Health and Safety Code by this act is intended to clarify the intent of the previously existing definition of waste and is not a change in that definition.

SEC. 14. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which

may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 879

An act to add Section 798.17 to the Civil Code, and to add Sections 65863.7 and 66427.4 to the Government Code, relating to land use.

[Approved by Governor September 10, 1980. Filed with Secretary of State September 10, 1980.]

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

SECTION 1. Section 798.17 is added to the Civil Code, to read:

798.17. In addition to the matters specified in Section 798.15, the rental agreement shall contain notice as to the nature of the zoning under which the park operates, and the date of expiration of the current conditional use permit under which the park operates. All tenants shall be subsequently notified by the management of the park of any change in such zoning or use permit status, including any application for change in the zoning or use.

SEC. 2. Section 65863.7 is added to the Government Code, to read:

65863.7. Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), the person or entity proposing such change in use shall file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. In determining the impact of the conversion on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks.

The person proposing such change in use shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

The legislative body, or its delegated advisory agency, shall review such report, prior to any change of use, and may require, as a condition of such change, the person or entity to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park.

This section establishes a minimum standard for local regulation of conversions of mobilehome parks into other uses and shall not prevent a local agency from enacting more stringent measures.

SEC. 3. Section 66427.4 is added to the Government Code, to read:

66427.4. At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park to another use, the subdivider shall also file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. In determining the impact of the conversion on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks.

The subdivider shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.

The legislative body, or an advisory agency which is authorized by local ordinance to approve, conditionally approve, or disapprove the map, may require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park.

This section establishes a minimum standard for local regulation of conversions of mobilehome parks into other uses and shall not prevent a local agency from enacting more stringent measures.

CHAPTER 880

An act to add Section 637.4 to the Penal Code, relating to polygraph examinations.

[Approved by Governor September 10, 1980 Filed with Secretary of State September 10, 1980]

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

SECTION 1. Section 637.4 is added to the Penal Code, to read:

637.4. (a) No state or local governmental agency involved in the investigation or prosecution of crimes, or any employee thereof, shall require or request any complaining witness, in a case involving the use of force, violence, duress, menace, or threat of great bodily harm in the commission of any sex offense, to submit to a polygraph examination as a prerequisite to filing an accusatory pleading.

(b) Any person who has been injured by a violator of this section may bring an action against the violator for his actual damages or one thousand dollars ($1,000), whichever is greater.

CHAPTER 881

An act to amend Section 9863 and to amend, repeal, and add Sections 9853, 9855, 9860, 9867, and 9901 of the Vehicle Code, relating to vessels, and making an appropriation therefor.

[Approved by Governor September 10, 1980 Filed with Secretary of State September 11, 1980]

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

SECTION 1. Section 9853 of the Vehicle Code is amended to read:

9853. The owner of each vessel requiring numbering by this state shall file an initial application for a number with the department or with an agent authorized by the department on forms approved by the department. Such forms shall be prepared in cooperation with the Department of Boating and Waterways. The application shall contain the true name and address of the owner and of the legal owner, if any, and the hull identification number of the vessel as may be required by the department. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of nine dollars ($9).

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 1.5. Section 9853 is added to the Vehicle Code, to read:

9853. The owner of each vessel requiring numbering by this state shall file an initial application for a number with the department or with an agent authorized by the department on forms approved by the department. Such forms shall be prepared in cooperation with the Department of Boating and Waterways. The application shall contain the true name and address of the owner and of the legal owner, if any, and the hull identification number of the vessel as may be required by the department. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of five dollars ($5).

This section shall become operative January 1, 1983.

SEC. 2. Section 9855 of the Vehicle Code is amended to read:

9855. If the ownership of an undocumented vessel changes, the existing certificate of ownership and a new application form accompanied by a fee of eight dollars ($8) shall be filed with the department and a new certificate of ownership and a new certificate of number shall be issued in the same manner as provided for in the initial issuance of number and the number shall be reassigned to the new owner.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 2.5. Section 9855 is added to the Vehicle Code, to read:

9855. If the ownership of an undocumented vessel changes, the existing certificate of ownership and a new application form accompanied by a fee of five dollars ($5) shall be filed with the department and a new certificate of ownership and a new certificate of number shall be issued in the same manner as provided for in the initial issuance of number and the number shall be reassigned to the new owner.

This section shall become operative January 1, 1983.

SEC. 3. Section 9860 of the Vehicle Code is amended to read:

9860. Certificates of number shall be renewed between January 1 and the first Friday of February every year by presentation of the certificate of number last issued for the vessel or by presentation of a potential registration card issued by the department. The fee for renewal shall be five dollars ($5) per year and shall accompany the request for such renewal.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 3.5. Section 9860 is added to the Vehicle Code, to read:

9860. Certificates of number shall be renewed between January 1 and the first Friday of February every year by presentation of the certificate of number last issued for the vessel or by presentation of a potential registration card issued by the department. The fee for renewal shall be two dollars ($2) per year and shall accompany the request for such renewal.

This section shall become operative January 1, 1983.

SEC. 4. Section 9863 of the Vehicle Code is amended to read:

9863. (a) Except as provided in subdivision (b), all fees received, except moneys collected under Section 9875, pursuant to this chapter shall be deposited in the Harbors and Watercraft Revolving Fund and are appropriated for the administration of this chapter. Any of such money in the Harbors and Watercraft Revolving Fund in excess of the amount determined by the Director of Finance, from time to time, to be necessary for expenditure for the administration of this chapter shall be available for expenditure in accordance with Section 85.2 of the Harbors and Navigation Code.

(b) All money derived from the increase in fees required pursuant to this chapter by the amendment of Sections 9853, 9855, 9860, 9867, and 9901 enacted at the 1980 portion of the 1979–80 Regular Session of the Legislature shall be deposited in the Harbors and Watercraft Revolving Fund and is continuously appropriated for support of local boating safety and enforcement programs as provided in Section 663.7 of the Harbors and Navigation Code.

SEC. 5. Section 9867 of the Vehicle Code is amended to read:

9867. A fee of five dollars ($5) shall be charged for a duplicate of certificate of number, certificate of ownership, or current year registration stickers.

This section shall remain in effect only until January 1, 1983, and

as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 5.5. Section 9867 is added to the Vehicle Code, to read:

9867. A fee of one dollar ($1) shall be charged for a duplicate of certificate of number, certificate of ownership, or current year registration stickers.

This section shall become operative January 1, 1983.

SEC. 6. Section 9901 of the Vehicle Code is amended to read:

9901. Whenever any person has received as transferee a properly endorsed certificate of ownership and the certificate of number of the vessel described in the certificates, he shall within 10 days thereafter file the certificates accompanied by a fee of eight dollars ($8) with the department, and thereby make application for a certificate of ownership and certificate of number.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 6.5. Section 9901 is added to the Vehicle Code, to read:

9901. Whenever any person has received as transferee a properly endorsed certificate of ownership and the certificate of number of the vessel described in the certificates, he shall within 10 days thereafter file the certificates accompanied by a fee of five dollars ($5) with the department, and thereby make application for a certificate of ownership and certificate of number.

This section shall become operative January 1, 1983.

CHAPTER 882

An act to amend Sections 14677 and 14678 of the Government Code, relating to carpooling, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1980. Filed with Secretary of State September 11, 1980.]

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

SECTION 1. For the purpose of eliminating trips made in passenger vehicles owned, operated, or maintained by the State of California, the Department of General Services, in consultation with the Department of Transportation, shall conduct a study to determine situations in which multiple occupancy of such vehicles can be effectively promoted and immediately facilitated, or in which scheduled mass transportation can be utilized. The department shall also determine, through its study, the number of state passenger vehicles, currently assigned to specific state agencies, which can feasibly be returned to service in state carpools. The department shall report its findings and recommendations to the Legislature

within 90 days of the effective date of this section.

SEC. 2. Section 14677 of the Government Code is amended to read:

14677. Any state agency, with the approval of the director, may permit motor vehicle parking by state officers and employees or other persons upon state property under the jurisdiction or control of such agency and may prescribe the terms and conditions of such parking including the payment of parking fees in such amounts and under such circumstances as may be determined by the state agency with the approval of the Director of General Services. Different rates of parking fees, based upon the number of riders in each vehicle, may be charged.

No such parking shall be permitted by any state agency except pursuant to this section.

Varying rates of parking fees may be established for different localities or for different parking facilities.

This section shall not apply to facilities constructed under the State College Revenue Bond Act of 1947, nor shall it apply to the parking of legislators' motor vehicles in the State Capitol Garage.

The Legislature hereby declares it to be the policy of the state to permit motor vehicle parking by state officers and employees or other persons on state-owned or controlled property to the extent reasonably possible and subject to the charging of parking fees under such circumstances and in such amounts as may be deemed appropriate.

The Legislature by this section does not intend to authorize the institution of a public parking program unrelated to state purposes and in competition with private industry.

SEC. 3. Section 14678 of the Government Code is amended to read:

14678. The Department of General Services is authorized to acquire, pursuant to the Property Acquisition Law (Part 11, commencing with Section 15850, Division 3, Title 2, Government Code) or by lease or other means, real property and to construct, operate, and maintain motor vehicle parking facilities thereon for state officers and employees, or other persons, provided that no such acquisition shall be commenced pursuant to the Property Acquisition Law unless and until an appropriation of funds therefor has been made by the Legislature. The department may enter into arrangements with other public agencies for joint use of motor vehicle parking facilities, provided the benefit to be derived by the state is commensurate with its participation. The department may prescribe the terms and conditions of such parking, including the payment of parking fees in such amounts and under such circumstances as may be determined by the department. Varying rates of parking fees may be established for different localities or for different parking facilities. The department may charge different rates of parking fees based on the number of riders in each vehicle. In determining rates of parking fees the department shall consider

the rates charged in the same locality by other public agencies and by private employers for employee parking.

Revenues received by the department from (a) any of the hereinabove motor vehicle parking facilities as may be designated by the director, and (b) motor vehicle parking facilities under the jurisdiction of any other state agency which has entered into an agreement with the department for the payment of revenues therefrom to the department, shall be deposited in the General Fund and are hereby appropriated, without regard to fiscal years, to the Department of General Services for the construction, operation and maintenance of motor vehicle parking facilities on real property acquired hereunder or on real property under the jurisdiction of any other state agency which has agreed to the payment of revenues as aforesaid from its motor vehicle parking facilities to the department. Any unneeded balance in this appropriation shall be transferred by the Controller on order of the Director of General Services to the unappropriated balance of the General Fund.

The Legislature by this section does not intend to authorize the institution of a private parking program unrelated to state purposes in competition with private industry.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

There is a lack of clarity in the statutes relating to the powers and duties of state agencies and the Department of General Services with respect to the imposition of different rates of parking fees for parking upon state property of any state agency and at state-operated parking facilities. In order that such lack of clarity may be remedied at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 883

An act to amend Section 8031 of, and to add Section 8024.6 to, the Business and Professions Code, relating to shorthand reporters, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1980 Filed with Secretary of State September 11, 1980]

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

SECTION 1. Section 8024.6 is added to the Business and Professions Code, to read:

8024.6. Each certificate holder shall notify the board in writing at its office in Sacramento of any change of address within thirty (30)

days after such change. A penalty as provided in this chapter shall be paid by each certificate holder who fails to notify the board within thirty (30) days as specified in this section.

SEC. 2. Section 8031 of the Business and Professions Code is amended to read:

8031. The amount of the fees required by this chapter is that fixed by the following schedule:

(a) The fee for filing an application for each examination shall be fixed by the board at not more than forty dollars ($40).

(b) The initial certificate fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board for renewal for each of the biennial renewal periods, at not more than forty dollars ($40), nor less than ten dollars ($10).

(d) The delinquency fee is twenty dollars ($20).

(e) The duplicate certificate fee is five dollars ($5).

(f) The penalty for failure to notify the board of a change of address is twenty dollars ($20).

SEC. 3. This act is an urgency statute necessary for the immediate perservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to provide sufficient funding for the Certified Shorthand Reporters Board, it is necessary that this act take effect immediately.

CHAPTER 884

An act to amend Sections 84700, 84701, 84720, 84897, 85000.5, 85003.5, 85023.5, and 85210 of, and to add Sections 74107, 84720.5, and 84904.5 to, and to repeal Section 85202 of, the Education Code, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1980 Filed with Secretary of State September 11, 1980]

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

SECTION 1. Section 74107 is added to the Education Code, to read:

74107. Notwithstanding any provision of law to the contrary, if a portion of the territory of a community college district becomes a part of any community college district other than the original community college district, the assessed valuation of the territory shall become part of the new or acquiring district. Tax moneys raised by a levy on the assessed valuation shall be transferred from the original community college district to the new or acquiring community college district.

SEC. 2. Section 84700 of the Education Code is amended to read:

84700. For the 1979–80 fiscal year, the chancellor shall apportion state aid to community college districts, except those addressed by Section 84706, according to the following procedure:

(a) The 1979–80 fiscal year revenues for each community college district shall be its base 1979–80 fiscal year revenues, as defined in Section 84701; plus or minus the average daily attendance adjustment based on incremental costs, as defined in Section 84702; plus the inflation adjustment specified in Section 84703; plus the urban district or small college assistance specified in Section 84704, if applicable; plus the capital outlay or lease/purchase assistance, if any, as specified in Section 84705.

(b) The chancellor shall adjust the amounts determined pursuant to subdivision (a) to provide for prior year adjustments or adjustments which are required pursuant to Sections 84330, 84737 and 84904, as well as adjustments for the effects of annexation or transfer of territory occurring after June 30, 1978.

(c) The chancellor shall also adjust the amounts provided by this article so that:

(1) After deducting the amount received pursuant to Section 84704 from the amounts provided by this article, each district receives at least 1.04 times its fiscal year 1978–79 revenues. Fiscal year 1978–79 revenues shall be defined as those revenues received pursuant to Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978; plus tuition transfers received from other districts for average daily attendance generated in 1978–79; minus payments made to other districts for tuition transfers for average daily attendance generated in 1978–79; minus revenues derived for 1978–79, pursuant to Section 84904 on account of Sections 84006 and 85100.

The provisions of this subdivision shall not apply to any district whose base 1979–80 fiscal year revenues are determined pursuant to Section 84706.

(2) After deducting the amount received pursuant to Section 84704 from the amounts provided by this article, no district receives more than the sum of 1.08 times its fiscal year 1978–79 revenues, as defined in paragraph (1) plus the inflation adjustment as computed pursuant to Section 84703.

(3) No district receives more than a 15 percent per unit increase,

exclusive of funds received pursuant to Section 84705, over its 1978–79 revenues per unit of average daily attendance.

(d) From the 1979–80 fiscal year revenues of each community college district, as adjusted by subdivision (b) or (c), or both, the chancellor shall subtract local property tax revenues, and local tax revenues specified by law for the general operating support of community colleges, exclusive of bond interest and redemption. The remainder shall be the state general apportionment for each such district.

(e) The State Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county containing a community college district at such times and in such amounts as determined by the chancellor; provided that no more than 75 percent of the state general apportionment provided for in this section shall be made prior to February 1, 1980.

(f) On or before February 15, 1980, the chancellor shall publish, and shall provide to the Legislature, a report on revenues per unit of average daily attendance in the community colleges. The report shall include comparisons on a district-by-district basis, as well as on a statewide basis, of revenues per unit of average daily attendance for fiscal years 1978–79 and 1979–80. The report shall also include information on the amounts of actual and estimated sources of revenue that comprise the base for the calculation of revenues per unit of average daily attendance.

(g) For purposes of this article, "average daily attendance" and "attendance ADA" shall mean the attendance of state residents attending within the district.

(h) In the event that the appropriation provided in Section 84719 is insufficient to provide funding for community college districts in accordance with the provisions of this article, the following procedures shall be applied:

(1) If the revenues allocated by subdivision (1) of Section 84719 are insufficient to provide for the state general apportionment as calculated pursuant to this section, any unallocated revenues remaining in subdivisions (2) and (3) of Section 84719, which are in excess of the amounts necessary to meet the requirements of Section 84704, shall be reallocated for purposes of the state general apportionment as contained in subdivision (1) of Section 84719. After such reallocation, if any, the amounts provided in subdivision (1) shall be allocated on a pro rata basis, so that all community college districts receive the same percentage of the revenue that they are otherwise calculated to receive pursuant to subdivision (a) of this section, as adjusted by Section 84706, or subdivision (c) of this section.

(2) If the revenues allocated by subdivision (2) of Section 84719 are insufficient to provide for the urban district assistance specified in subdivision (a) of Section 84704, the revenues shall be allocated on a pro rata basis to eligible districts.

(3) If the revenues allocated by subdivision (3) of Section 84719

are insufficient to provide for the small college assistance specified in subdivision (b) of Section 84704, the revenues shall be allocated on a pro rata basis to eligible districts.

SEC. 3. Section 84701 of the Education Code is amended to read:

84701. The base 1979–80 fiscal year revenues for each community college district shall be determined according to the following procedure:

(a) For each district which declined 7 percent or less in average daily attendance between fiscal years 1977–78 and 1978–79, the chancellor shall:

(1) Determine each such district's revenues for the 1977–78 fiscal year by combining its 1977–78 second principal net regular apportionment and state aid for the State Teachers' Retirement System, 1977–78 property tax revenues, 1977–78 income from counties, and tuition transfers received from other districts for average daily attendance generated in 1977–78. From this amount the chancellor shall subtract:

(A) Revenues derived for fiscal year 1977–78 from the capital outlay matching tax authorized by Section 85100.

(B) Revenues derived for fiscal year 1977–78 from bond interest and redemption.

(C) Revenues derived for fiscal year 1977–78 from the tax authorized by Sections 84006, 81338, and 81341.

(D) Revenues derived for fiscal year 1977–78 from the tax authorized by former Section 81180, or any authorization to tax for purposes of earthquake safety.

(E) Payments made for fiscal year 1977–78 to other districts for tuition transfers.

(F) Revenues derived for fiscal year 1977–78 pursuant to Section 4147.

(2) The chancellor shall divide the result in paragraph (1) by the average daily attendance for the district in fiscal year 1977–78, thereby computing revenues per unit of average daily attendance for fiscal year 1977–78.

(3) The chancellor shall multiply the 1977–78 revenues per unit of average daily attendance, as computed pursuant to paragraph (2), times the average daily attendance for the district in fiscal year 1978–79. The result shall be the district's base 1979–80 fiscal year revenues.

(b) For each district which declined more than 7 percent in average daily attendance between fiscal years 1977–78 and 1978–79, the chancellor shall determine the district's revenues for fiscal year 1977–78 in the manner specified in paragraph (1) of subdivision (a), and multiply the result times 0.93. The product shall be the district's base 1979–80 fiscal year revenues.

SEC. 4. Section 84720 of the Education Code is amended to read:

84720. For the 1980–81 fiscal year, the chancellor shall apportion general state aid to community college districts according to the following procedure:

(a) The 1980–81 fiscal year revenues for each community college district shall be its base 1980–81 fiscal year revenues, as defined in Section 84721; plus or minus the average daily attendance adjustment based on incremental costs, as defined in Section 84722; plus the inflation adjustment specified in Section 84723; plus the capital outlay or lease-purchase assistance, if any, as specified in Section 84724.

(b) The chancellor shall adjust the amount determined pursuant to subdivision (a) to provide for prior year adjustments or adjustments which are required pursuant to Sections 84330, 84737 and 84904, as well as adjustments for the effects of annexation for transfer of territory occurring after June 30, 1979.

(c) For any district whose revenues computed pursuant to this article are less than 1.01 times the revenues received by the district for fiscal year 1978–79, as defined in paragraph 1 of subdivision (c) of Section 84700, the district shall receive 1.01 times its fiscal year 1978–79 revenues in lieu of amounts computed pursuant to this article.

(d) From the 1980–81 fiscal year revenues of each community college district, as adjusted pursuant to subdivisions (b) and (c), the chancellor shall subtract local property tax revenues and other local tax revenues specified by law for the general operating support of community colleges, exclusive of bond interest and redemption. The remainder shall be the state general apportionment for each such district.

(e) The State Controller shall draw warrants on the State Treasury in favor of the County Treasurer of each county containing a community college district at such times and in such amounts as determined by the chancellor; provided that no more than 75 percent of the state general apportionment provided for in this section shall be made prior to February 1, 1981.

(f) On or before February 15, 1981, the chancellor shall publish, and shall provide to the Legislature, a report on revenues per unit of average daily attendance in the community colleges. The report shall include comparisons on a district-by-district basis, as well as on a statewide basis, of revenues per unit of average daily attendance for fiscal years 1979–80 and 1980–81. The report shall also include information on the amounts of actual and estimated sources of revenue that comprise the basis for the calculation of revenues per unit of average daily attendance.

(g) For purposes of this article "average daily attendance" and "attendance ADA" shall mean the attendance of state residents attending within the district.

(h) If the revenues appropriated by Section 84728 are insufficient to provide for the state general apportionment as calculated pursuant to this section, the amounts appropriated by Section 84728 shall be allocated on a pro rata basis, so that all community college districts receive the same percentage of the revenue that they are otherwise entitled to receive.

SEC. 5. Section 84720.5 is added to the Education Code, to read:

84720.5. Notwithstanding any other provision of law, the portion of the 1977–78 fiscal year revenue expended for capital outlay from the levy of the child development permissive tax authorized by Section 8329 of the Education Code shall be excluded from the 1977–78 child development tax revenue used in determining the amount required to be made available to community colleges' child development programs pursuant to Section 6.5 of Chapter 332 of the Statutes of 1978 for fiscal year 1978–79 and Section 30 of Chapter 1035 of the Statutes of 1979 for fiscal year 1979–80.

SEC. 6. Section 84897 of the Education Code is amended to read:

84897. This article shall remain in effect only until July 1, 1982, and as of such date is repealed unless a statute which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 7. Section 84904.5 is added to the Education Code, to read:

84904.5. For purposes of Section 84904, a community college district which annexed territory effective July 1, 1978, shall have included in its target budget, for the 1978–79 fiscal year only, the revenue which it would have received from the territory which it annexed under Chapter 8 (commencing with Section 2100) of Part 2, were that chapter not made inoperative for that fiscal year.

SEC. 8. Section 85000.5 of the Education Code is amended to read:

85000.5. On or before the 55th day following the chaptering of either (1) the Budget Act, or (2) an act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for schools, whichever is later, but in no event later than September 12, of each year, the governing board of each community college district shall prepare and keep on file for public inspection a statement of all receipts and expenditures of the district for the preceding fiscal year and a statement of the estimated total expenses for the district for the current fiscal year.

The provisions of this section shall be operative only in a fiscal year in which the Budget Act, or any other act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for community colleges, is chaptered after July 1 of the fiscal year for which funding is provided.

SEC. 9. Section 85003.5 of the Education Code is amended to read:

85003.5. The publication budget of community college districts for the ensuing school year to which it is intended to apply, showing program expenditures, cash balances, and all the appropriations from the state as required to be tabulated in Section 85021 for the ensuing and last preceding fiscal year, and the district tax requirement for the school year to which the publication budget is intended to apply and for the last preceding school year, including a summary of the district tax requirements for the ensuing fiscal year to be derived by levies on the secured roll as shown on the budget form prescribed for this purpose by the board of governors, shall be

published by the county superintendent of schools at least once in a newspaper of general circulation published within the district, or if there is no such newspaper, then in any newspaper of general circulation in the district, prior to its adoption. The cost of the publication shall be a proper and legal charge against the community college district or districts for which the publication is made, and shall not exceed the rate fixed by the board of supervisors for official advertising. Publication shall be made by the 37th day following the chaptering of either (1) the Budget Act, or (2) an act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for schools, whichever is later, but in no event later than August 26, and shall contain a notice that a public hearing will be held before the governing board of the community college district, in a schoolhouse in the district, or in some other place conveniently accessible to the residents of the district, on or before the 50th day following the chaptering of either (1) the Budget Act, or (2) an act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for schools, whichever is later, but in no event later than September 7, and provided that such hearing shall not occur prior to three days after the publication budget has been published, at which any taxpayer in the district may appear and object to the proposed budget or any item of the budget. The hearing may be concluded on such publication budget when there are no requests on file for further hearing. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held. In the case of a community college district or districts in which the average daily attendance of all such districts combined is in excess of 200,000, governed by the same governing board, the public hearing during the first week in August need not be held if there has been at least one public meeting prior to that time, but following at least three days the publication of the budget, at which public meeting any changes proposed to be made in that publication budget for the final budget shall have been presented.

The provisions of this section shall be operative only in a fiscal year in which the Budget Act, or any other act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for community colleges, is chaptered after July 1 of the fiscal year for which funding is provided.

SEC. 10. Section 85023.5 of the Education Code is amended to read:

85023.5. (a) On or before the first day of July in each year, each community college district shall file a tentative budget with the county superintendent of schools.

(b) On or before the 20th day following the chaptering of either (1) the Budget Act, or (2) an act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for schools, whichever is later, but in no event later than August 9, in each year, the county superintendent of schools:

(1) Shall examine and may make technical corrections to the tentative budget, and indicate changes the county superintendent deems desirable or necessary to determine the tax requirements; and

(2) Shall make any recommendations the county superintendent deems necessary to insure that the proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic, and shall transmit to the governing board of the community college district a written explanation of the reasons for such changes.

(c) On or before the 25th day following the chaptering of either (1) the Budget Act, or (2) an act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for schools, whichever is later, but in no event later than August 14, in each year, the governing board shall make such changes in the tentative budget as it deems necessary or desirable and shall return the budget to the county superintendent of schools. Such budget shall constitute the publication budget for the period to which it is intended to apply. A copy of this publication district budget shall be sent to the county auditor in such form.

(d) On or before the 50th day following the chaptering of either (1) the Budget Act, or (2) an act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for schools, whichever is later, but in no event later than September 7, the governing board of each community college district shall adopt a final budget and shall file such budget with the county superintendent of schools, the county auditor, the county board of supervisors, and the Chancellor of the California Community Colleges.

(e) On or before the 60th day following the chaptering of either (1) the Budget Act, or (2) an act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for schools, whichever is later, but in no event later than September 17, the county superintendent shall approve the adopted budget for each community college district as officially adopted and submitted by its governing board, and shall file one copy of the adopted budget of each community college district with the board of supervisors, one copy with the auditor of his county, and one copy with the office of the Chancellor of the California Community Colleges, together with a statement showing the amount of community college district taxes required by each community college district of the county.

The provisions of this section shall be operative only in a fiscal year in which the Budget Act, or any other act providing for the allocation and appropriation of a substantial portion of the state's share of financial support for community colleges, is chaptered after July 1 of the fiscal year for which funding is provided.

SEC. 11. Section 85202 of the Education Code is repealed.

SEC. 12. Section 85210 of the Education Code is amended to read:

85210. All income accruing to the community college district in

excess of the amounts required to finance the total proposed expenditures, including transfers to other community college districts and funds, as shown in the budget of the district shall be added to the general reserve of the district, and shall not be available for appropriation by the district for the current fiscal year except by the following procedure. The governing board of the district shall, by formal action of the board, pass a resolution setting forth the need according to major classification of district expenditures to be met from any portion of the general reserve derived from assured income in excess of the total amount anticipated in the budget. The resolution shall be submitted to the county superintendent of schools for approval.

The county superintendent of schools shall approve any resolution for the appropriation of income provided from state or federal sources for emergency needs of the community college district to the extent that such income was not anticipated in the budget of the district.

On the first day of July of each year, the general reserve together with unexpended balances of appropriations and income in excess of anticipated income for the preceding fiscal year shall be placed to the credit of the district, and the district shall include all money so credited in the balance shown in the budget for the ensuing fiscal year.

SEC. 13. The Legislature finds and declares that there is a need for campuses of the California State University and Colleges to be safe and secure for faculty, staff, and students. The Legislature has become aware of serious situations on campuses of the California State University and Colleges which jeopardize safety and require special efforts for crime prevention and deterrence.

Therefore, there is hereby appropriated to the Trustees of the California State University and Colleges the following sums:

(a) From the General Fund in the State Treasury to increase public safety staffing	$199,690
(b) From the Capital Outlay Fund for Public Higher Education for communications, safety, and surveillance equipment and devices	307,606

SEC. 14. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that community college districts receive sufficient funds at the earliest possible time in the 1980–81 fiscal year to meet the increased costs of operation caused by inflation, and in order to permit the California State University and Colleges to make public safety expenditures from funds appropriated by this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 885

An act to amend Section 15433 of the Government Code, relating to health facilities.

[Approved by Governor September 13, 1980. Filed with Secretary of State September 14, 1980.]

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

SECTION 1. Section 15433 of the Government Code, as added by Chapter 1033 of the Statutes of 1979, is amended to read:

15433. The authority shall consist of nine members, including the State Treasurer, who shall serve as chairman, the State Controller, the Director of Finance, two members appointed by the Senate Rules Committee, two members appointed by the Speaker of the Assembly, and two members appointed by the Governor subject to confirmation by a majority vote of the Senate. Of the members appointed by the Senate Rules Committee, one member shall be a licensed physician and surgeon, and one shall serve in an executive capacity to a health facility. Of the members appointed by the Speaker of the Assembly, one member shall be a person qualified by training and experience in the field of investment or finance, and one member shall be representative of the general public. The members appointed by the Governor shall be representative of the general public. The terms of appointed members shall be four years, expiring on March 31. Each member shall hold office for the term of his or her appointment and shall continue to serve until a successor shall have been appointed and qualified. Any vacancy among the members shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

Members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

CHAPTER 886

An act to amend, add, and repeal Section 8693 of, to add Sections 1012, 7123, 8680, 8681, 8682, 8683, and 8684 of, to add and repeal Sections 7122, 8015.5, 8046, and 8394.5 of, and to add and repeal Article 16 (commencing with Section 8560) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980]

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

SECTION 1. Section 1012 is added to the Fish and Game Code, to read:

1012. The department may procure insurance for its employees for injury or death against the liability of the owner or operator of any vessel boarded by an employee as an observer.

SEC. 2. Section 7122 is added to the Fish and Game Code, to read:

7122. All marlin taken by fishermen licensed under a sportfishing license shall be reported to the department on forms provided by the department and such taking shall be subject to such regulations as the commission may prescribe.

This section shall remain in effect only until two years from the effective date of this section, and as of such date is repealed, unless a later enacted statute, which is chaptered before two years from the effective date of this section, deletes or extends such date.

SEC. 3. Section 7123 is added to the Fish and Game Code, to read:

7123. The department shall develop a voluntary participation program for the use of departmental observers on board vessels to monitor the taking of marlin by sportfishermen. The department shall, in accordance with Section 1012, procure insurance against the liability of the owners or operators of vessels boarded by observers in the event of injury to or death of any such observer in the course and scope of employment as an observer.

SEC. 3. Section 8015.5 is added to the Fish and Game Code, to read:

8015.5. Any person who receives swordfish from fishermen shall record the aggregate weight of all swordfish received and the total number of swordfish received on the form required by Section 8011.

This section shall remain in effect only until two years from the effective date of this section, and as of such date is repealed, unless a later enacted statute, which is chaptered before two years from the effective date of this section, deletes or extends such date.

SEC. 5. Section 8046 is added to the Fish and Game Code, to read:

8046. Every person operating under a license issued pursuant to this article shall, in addition to the license fee and the tax required under Section 8045, pay an additional privilege tax of one cent ($0.01) for each pound, or fraction thereof, of thresher shark or bonito shark purchased, received, or taken by him. The moneys

collected by the department pursuant to this section shall be expended solely for purposes of Sections 8562 and 8565.

Collection of the privilege tax imposed by this section shall begin on the first day of the first month following the effective date of this section.

This section shall remain in effect only until two years from the effective date of this section, and as of such date is repealed, unless a later enacted statute, which is chaptered before two years from the effective date of this section, deletes or extends such date.

SEC. 6. Section 8394.5 is added to the Fish and Game Code, to read:

8394.5. The fee for the permit issued pursuant to Section 8394 shall be one hundred fifty dollars ($150). Moneys collected pursuant to this section shall be expended solely for purposes of Sections 8562 and 8565.

Permits issued pursuant to Section 8394 which are in effect on the effective date of this section are hereby revoked. Permit holders subject to this provision may reapply for a permit.

This section shall remain in effect only until two years from the effective date of this section, and as of such date is repealed, unless a later enacted statute, which is chaptered before two years from the effective date of this section, deletes or extends such date.

SEC. 7. Article 16 (commencing with Section 8560) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 16. Drift Gill Net Shark Fishery

8560. The following definitions apply to the provisions of this article:

(a) "Qualification period" means the period January 1, 1978, through December 31, 1979.

(b) "Qualified individual" means either of the following:

(1) A natural person who, during the qualification period, has qualified by landing at least one thresher or bonito shark taken by drift gill net and sold for commercial purposes, as evidenced by a fish landing receipt issued pursuant to Section 8011 or 8015, and who has a commercial fishing license.

(2) A natural person, not otherwise qualified, who can prove to the director's satisfaction that he made a significant investment in the drift gill net fishery for shark prior to May 20, 1980.

8561. The season for taking shark with drift gill nets is April 1 through March 31.

8562. The Legislature finds and declares that:

(a) The drift gill net shark fishery is expanding at a rapid rate.

(b) The principal species taken by the fishery are long lived and have a low rate of reproduction.

(c) The drift gill net shark fishery affects the important swordfish and marlin fisheries.

Therefore, it is the intent of the Legislature that the department study the drift gill net shark fishery for biological and fishery management purposes and conduct a tagging study to determine the

effect of the use of drift gill nets on swordfish and marlin. The department shall report its findings to the Legislature by January 1, 1983.

8563. Shark may not be taken for commercial purposes with drift gill nets except under a nontransferable, revocable permit issued annually by the department to a qualified individual otherwise authorized to engage in commercial fishing. Such permits may be revoked by the commission for conviction of a violation of any provision of this article, and permits shall be revoked for conviction of a violation of reporting procedures required by Section 8568, for a transfer of swordfish in violation of Section 8566 or marlin in violation of Section 8567, or for the use of drift gill nets of mesh size greater than 8 inches when the drift gill net fishery for shark is closed.

8564. Application for a drift gill net permit to take shark shall be made on such forms and contain such information as the department may require. Such permit requirement is in addition to any other commercial fishing requirements.

The permit shall be valid, unless revoked, from April 1 to March 31 of the following year, or, if issued after the beginning of such term, for the remainder thereof.

The fee for a commercial drift gill net permit to take shark shall be one hundred fifty dollars ($150). Moneys collected pursuant to this section shall be expended solely for purposes of Sections 8562 and 8565.

8565. An observer employed by the department may board any drift gill net vessel for the purpose of observing fishing operations. The department shall determine the need for an observer based on size of vessel, passenger capacity, and other relevant considerations. The department shall, in accordance with Section 1012, procure insurance against the liability of the owners or operators of vessels boarded by observers in the event of injury to or death of any such observer in the course and scope of employment as an observer.

A person in possession of both a permit issued pursuant to this article and a permit issued pursuant to Section 8394 shall fish pursuant to either or both permits only after complying with notification procedure requirements prescribed by the department. The department shall prescribe notification procedures to ensure that permittees operating under both permits are accompanied by observers.

The permittee shall temporarily surrender the permit under which he will not be fishing at the time he notifies the department as to which permit he will be using. A permittee shall not fish under one permit from a vessel which has on board portable gear for the other surrendered permit. A permittee shall not fish under both permits on the same trip unless he has complied with department notification procedures.

The department shall revoke both permits for conviction of a violation of such notification requirements.

8566. Notwithstanding Section 8394, incidental amounts of swordfish may be taken by drift gill net shark fishermen operating under a permit issued pursuant to this article. Any incidental catch of swordfish shall be taken subject to the following conditions:

(a) The allowable season catch of swordfish shall be 25 percent, by number, of the swordfish taken in accordance with Section 8394. Each month during the season, the department shall determine the cumulative incidental catch of swordfish. Whenever the department determines that the cumulative incidental catch of swordfish exceeds the percentage indicated in this subdivision, the director shall publicly announce the date and time that the drift gill net fishery for shark will close. Such closure shall not be less than 48 or more than 56 hours after the time of announcement. The director shall reopen the season whenever the department determines that, due to the additional take of swordfish in accordance with Section 8394 the percentage indicated in this subdivision exceeds the cumulative incidental catch.

(b) It is unlawful to transfer swordfish to or from vessels operating under a permit issued pursuant to this article, except that swordfish may be transferred to or from boats with a departmental observer on board. An observer shall observe and make a written record of such transfers.

(c) Notwithstanding subdivision (a), the director may raise the amount of the incidental catch of swordfish determined pursuant to subdivision (a), if he determines all of the following:

(1) That swordfish landings by fishermen operating pursuant to Section 8394 are unusually low.

(2) That the low landings are not caused by low swordfish population levels.

(3) That the resulting low allowable catch is having an adverse impact on the drift gill net shark fishery.

(d) Any change adopted pursuant to subdivision (c) shall be reported to the Legislature and the commission within 10 days of adoption. Such change shall remain in force for the remainder of the season, unless revoked by the director on the basis of new information.

8567. (a) Any marlin caught in a drift gill net shall be turned over to the department at the first practical opportunity. In no case shall any marlin so caught be retained by the drift gill net permitholder for personal or commercial use.

(b) The allowable season catch of marlin shall be 10 percent, by number, of the marlin taken by sportfishermen. Each month during the season, the department shall determine the cumulative incidental catch of marlin. Whenever the department determines that the cumulative incidental catch of marlin exceeds the percentage specified in this subdivision, the director shall publicly announce the date and time that the drift gill net fishery for shark will close. Such closure shall not be less than 48 or more than 56 hours after the time of announcement. The director shall reopen the season whenever the department determines that, due to the additional take of marlin by sportfishermen, the percentage specified in this subdivision exceeds the cumulative incidental catch.

(c) It is unlawful to transfer marlin to or from vessels operating

under a permit issued pursuant to this article.

(d) Notwithstanding subdivision (b), the director may raise the amount of the incidental catch of marlin determined pursuant to subdivision (b), if he determines either (1), (2), and (3), or (4) as follows:

(1) That marlin landings by sportfishermen are unusually low.

(2) That the low landings are not caused by low marlin population levels.

(3) That the resulting low allowable catch is having an adverse impact on the drift gill net shark fishery.

(4) That marlin being taken by sportfishermen are underreported.

(e) Any change adopted pursuant to subdivision (d) shall be reported to the Legislature and the commission within 10 days of adoption. Such change shall remain in force for the remainder of the season, unless revoked by the director on the basis of new information.

8568. Each permittee shall keep an accurate record of his fishing operations in a logbook furnished by the department.

8569. Notwithstanding Section 8563, this article does not apply to the use of gill nets with mesh size smaller than 8 inches (stretched mesh) or with twine size less than no. 18. Such nets shall only be used pursuant to a permit issued under Section 8681.

8570. Drift gill nets may be used to take shark subject to the following restrictions:

(a) Nets may be fished only between two hours before sunset and two hours after sunrise.

(b) The owner's permit number shall be permanently affixed to at least one net bouy or float.

(c) Nets greater than 6,000 feet in length shall not be used, nor shall they be possessed on any boat.

8574. This article shall remain in effect only until two years from the effective date of this article, and as of such date is repealed, unless a later enacted statute, which is chaptered before two years from the effective date of this section, deletes or extends such date.

SEC. 8. Section 8680 is added immediately after the heading of Article 5 (commencing with Section 8685) of Chapter 3 of Part 3 of Division 3 of the Fish and Game Code, to read:

8680. The Legislature finds and declares that it is in the best interest of the people of the state, the commercial fishing industry, and California's marine resources that fishermen who use gill nets be experienced in the use of such nets.

SEC. 9. Section 8681 is added to the Fish and Game Code, to read:

8681. Gill nets shall not be used for commercial purposes except under a revocable nontransferable permit issued by the department. Each permittee shall keep an accurate record of his fishing operations in a logbook furnished by the department. A permit may be revoked and canceled by the commission when so recommended by the department, upon a conviction for a violation of a provision

of this article, or regulation authorized by this article, by the permittee, his agents, servants, employees, or those acting under his direction and control. A permit may be revoked and canceled for a period not to exceed one year from the date of revocation.

SEC. 10. Section 8682 is added to the Fish and Game Code, to read:

8682. (a) The commission shall establish regulations for the issuance of gill net permits as necessary to establish an orderly gill net fishery. In promulgating regulations, the commission shall consider recommendations of the advisory committee created pursuant to subdivision (b). Such regulations shall include, but are not limited to, a requirement that persons being granted a permit have had previous experience as a crewmember of a vessel using gill nets or have successfully passed a proficiency test administered by the department, under such regulations as the commission shall prescribe.

(b) The director shall establish an advisory committee, consisting of fishermen experienced in the use of gill nets, to advise the department in developing regulations to be proposed to the commission governing the use of gill nets.

SEC. 11. Section 8683 is added to the Fish and Game Code, to read:

8683. The director shall establish a permit fee as necessary to cover the cost of issuing such permits.

SEC. 12. Section 8684 is added to the Fish and Game Code, to read:

8684. No incidental catch of swordfish or marlin is authorized by this article. Any swordfish or marlin caught incidentally by a permittee shall be delivered to the department. However, the holder of a permit issued pursuant to Section 8563 is subject to the provisions of Article 16 (commencing with Section 8560) of Chapter 2 of Part 3 of Division 6 regarding incidental catch when fishing pursuant to such permit.

A permit issued pursuant to Section 8681 shall be revoked for conviction of a violation of this section.

SEC. 13. Section 8693 of the Fish and Game Code is amended to read:

8693. In Districts 17, 18, 19, and 20A, drift gill nets and set gill nets may be used except for the taking of salmon.

Rockfish and lingcod may be taken with drift gill nets and set gill nets in such districts subject to the following restrictions:

(a) Rockfish and lingcod may not be taken between a line running 240° magnetic from the south steamplant stack at Moss Landing and a line running 320° magnetic from the lighthouse at Point Pinos in water less than 60 fathoms.

(b) Rockfish and lingcod may not be taken between a line running 320° magnetic from the lighthouse at Point Pinos and a line running 250° magnetic from Hurricane Point in waters less than 50 fathoms.

(c) Rockfish and lingcod may not be taken between a line running 250° magnetic from Hurricane Point and a line running 180° magnetic from Pfeiffer Point in water less than 45 fathoms.

(d) Rockfish and lingcod may not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms.

(e) Rockfish and lingcod may not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from the south steamplant stack at Moss Landing, inside 40 fathoms, by means of drift gill nets and set gill nets which have mesh smaller than 5½ inches.

(f) Loads or lots of fish taken in the areas described under subdivisions (a) to (e), inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(g) On and after July 1, 1978, drift gill nets and set gill nets which have mesh smaller than 4⅛ inches may not be used nor may they be possessed on any boat fishing for rockfish and lingcod in Districts 17, 18, 19, and 20A. On and after such date, drift gill nets and set gill nets used or possessed on any boat fishing for rockfish and lingcod in such districts, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

(h) This section shall not become operative until January 1, 1983.

SEC. 14. Section 8693 is added to the Fish and Game Code, to read:

8693. In Districts 17, 18, 19, and 20A drift gill nets and set gill nets may be used except for the taking of salmon.

Rockfish and lingcod may be taken with drift gill nets and set gill nets in such districts subject to the following restrictions:

(a) Rockfish and lingcod shall not be taken between a line running 240° magnetic from the south steamplant stack at Moss Landing and a line running 320° magnetic from the lighthouse at Point Pinos in water less than 60 fathoms.

(b) Rockfish and lingcod shall not be taken between a line running 320° magnetic from the lighthouse at Point Pinos and a line running 250° magnetic from Hurricane Point in waters less than 50 fathoms.

(c) Rockfish and lingcod shall not be taken between a line running 250° magnetic from Hurricane Point and a line running 180° magnetic from Pfeiffer Point in water less than 45 fathoms.

(d) Rockfish and lingcod shall not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms.

(e) Rockfish and lingcod shall not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from the south steamplant stack at Moss

Landing, inside 40 fathoms, by means of drift gill nets and set gill nets which have mesh smaller than 5½ inches.

(f) Drift gill nets and set gill nets shall not be used nor shall they be possessed on any boat fishing for rockfish and lingcod with mesh smaller than 4⅛ inches when used in Districts 17 and 18, north of Point Buchon, or with mesh smaller than 4⅛ inches when used in Districts 18, south of Point Buchon, and 19. Drift gill nets and set gill nets used or possessed on any boat fishing for rockfish and lingcod in such districts, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

(g) In Districts 18, south of Point Sal, and 19, drift gill nets and set gill nets shall not be used to take rockfish and lingcod with the mesh of the net in waters less than 50 fathoms in depth when within the first 100 fathom curve along the mainland shore, and elsewhere in waters less than 70 fathoms in depth. The department shall conduct a study regarding the impact of depth restrictions imposed by this subdivision on the taking of rockfish and lingcod, and shall report to the Legislature concerning the study on or before January 1, 1983.

(h) Loads or lots of fish taken in the areas described under subdivisions (a) to (g), inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(i) Gill nets shall not be used to take rockfish in District 20A.

(j) This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 15. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the Fish and Game Preservation Fund to the Department of Fish and Game for expenditure during the 1980–81 fiscal year for the purposes of conducting the study required by Section 8562 of the Fish and Game Code, and financing observers required by Section 8565 of the Fish and Game Code. The costs of conducting the study and financing observers, including the costs of insurance procured in connection therewith pursuant to Section 8565 of the Fish and Game Code, shall be limited to the appropriation provided by this section. It is the intent of the Legislature that funds appropriated by this section shall be reimbursed to the Fish and Game Preservation Fund through the assessment of fees for privilege taxes and permits required pursuant to Sections 8046, 8394.5, and 8564 of the Fish and Game Code.

SEC. 16. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Further, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this

act.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Under existing law, during the current season shark fishermen are prevented from taking any swordfish incidental to the shark fishery. However, shark and swordfish frequently appear in the same place at the same time and shark nets consequently catch swordfish in addition to shark. In order to preserve and protect fishery resources generally, it is necessary that this act take effect immediately.

CHAPTER 887

An act to add Part 1.97 (commencing with Section 448) to Division 1 of the Health and Safety Code, and to add Section 14106.2 to the Welfare and Institutions Code, relating to health.

[Approved by Governor September 13, 1980. Filed with Secretary of State September 14, 1980]

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

SECTION 1. Part 1.97 (commencing with Section 448) is added to Division 1 of the Health and Safety Code, to read:

PART 1.97. VOLUNTARY HEALTH FACILITY AND CLINIC PHILANTHROPIC SUPPORT ACT

448. This part shall be known and may be cited as the Voluntary Health Facility and Clinic Philanthropic Support Act.

448.1. The Legislature finds and declares that, while there continues to be a need to focus on the deficiencies in the health care system and on corrective reform measures that might be taken, there is also need for focus on the enhancement of its strengths. Existing philanthropic support for health facilities and clinics is a strength which must be preserved and enhanced under any reform measure for all of the following reasons:

(a) Philanthropy imbues members of the community with a sense of pride in their voluntary nonprofit health facilities and clinics and creates a setting in which members of the community are willing to devote time and effort to improve health care available in the community in a way that government regulation could never replace.

(b) Philanthropy allows voluntary nonprofit institutions to conduct research and to engage in other innovative efforts to improve health care in California.

(c) Philanthropy provides required discretionary dollars for

voluntary nonprofit institutions, which, in part, substitute for the absence of profits.

(d) Philanthropy allows hospitals to replace wornout and obsolete facilities when, in a period of high inflation, historical costs accumulated through depreciation are totally insufficient to provide for such replacement.

(e) Philanthropy pays for necessary expenditures that otherwise would have to be paid by patients or by government.

(f) Philanthropy may be discouraged by certain shortsighted actions of administrative agencies which, while purporting to serve a short-term purpose, seriously deter the vast benefits to the health care field inuring directly from philanthropy and voluntarism.

(g) Recent amendments to the federal tax laws to broaden the use of the standard deduction also have the effect of eliminating important incentives for philanthropy.

448.2. It is, therefore, the intent of the Legislature to create an environment in which philanthropy and voluntarism in the health care field and the vast benefits arising from it for the citizens of California can be encouraged. The Legislature hereby declares it to be the policy of this state that philanthropic support for health care be encouraged and expanded, especially in support of experimental and innovative efforts to improve the health care delivery system.

448.3. For purposes of any state law, whether enacted before or on or after January 1, 1980, which in any manner provides for regulation, review, or reporting of the budget, rates, or revenues of health facilities, as defined in Section 1250, or clinics, as defined in Section 1204, including the provisions of Part 1.7 (commencing with Section 440), none of the following shall be treated directly, or indirectly, as revenues allocable to the cost of care provided by the health facility or clinic:

(a) A donor-designated or restricted grant, gift, endowment, or income therefrom, as defined in Section 405.423(b) of Title 42 of the Code of Federal Regulations, insofar as permitted by federal law.

(b) A grant or gift, or income from such grant or gift, which is not available for use as operating funds because of its designation by the governing board or entity of the health facility or clinic.

(c) A grant or similar payment which is made by a governmental entity and which is not available, under the terms of the grant or payment, for use as operating funds.

(d) Amounts attributable to the sale or mortgage of any real estate or other capital assets of the health facility or clinic which it acquired through a gift or grant, and which are not available for use as operating funds under the terms of the gift or grant or because of designation as provided in subdivision (b).

(e) A depreciation fund which is created by the health facility or clinic in order to meet a condition imposed by a third party for the third party's financing of a capital improvement of the health facility or clinic, provided the fund is used exclusively to make payments to such third party for the financing of such capital improvement.

(f) Funds used to defray the expense of fundraising.

448.4. No state law shall be construed in such a way as to discourage philanthropic support of health facilities and clinics, or to otherwise hinder the use of such support for purposes determined by the recipients to be in the best interests of the physicians and patients it serves.

However, in enacting this part and Section 14106.2 of the Welfare and Institutions Code, the Legislature does not intend to place any restrictions on cost containment measures relating to health facilities which may be enacted in the future.

SEC. 2. Section 14106.2 is added to the Welfare and Institutions Code, to read:

14106.2. Insofar as permitted by federal law, for purposes of determining the reasonable costs of any service reimbursable under the provisions of this chapter, or determining prospective per capita rates of payment or cost-basis reimbursement under Chapter 8 (commencing with Section 14200) or Chapter 8.7 (commencing with Section 14520), any gifts, grants, or endowments received by the provider of such services or prepaid health plan, and any income earned by the investment or deposit thereof, shall not be deducted from the operating costs of such provider or plan.

It is the intent of the Legislature, in enacting this section, to encourage philanthropic support of health facilities and other providers of services to Medi-Cal beneficiaries.

CHAPTER 888

An act to amend Section 13189 of the Health and Safety Code, relating to portable fire extinguishers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980]

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

SECTION 1. Section 13189 of the Health and Safety Code is amended to read:

13189. (a) Except as otherwise provided in subdivision (b), the original and annual renewal fee for any license or a certificate of registration issued pursuant to this chapter shall be as follows:

(1)	Certificate of registration	$5
(2)	A license for any person to service, recharge, or inspect all type of fire extinguishers except dry chemical units	$50
(3)	A license for any person to conduct hydrostatic tests of water and water chemical fire extinguishers	$50

(4) A license for any person to service, recharge, inspect or conduct hydrostatic tests of dry chemical fire extinguishers $50
(5) A license for any person to conduct hydrostatic tests of fire extinguisher cylinders that are listed and marked in conformance with the United States Department of Transportation (I.C.C.) regulations $50

(b) For the 1981 calendar year and thereafter, the original and annual renewal fee for any license or a certificate of registration issued pursuant to this chapter shall be as follows:

(1) Certificate of registration $25
(2) A license for any person to service, recharge, or inspect all type of fire extinguishers except dry chemical units $75
(3) A license for any person to conduct hydrostatic tests of water and water chemical fire extinguishers $75
(4) A license for any person to service, recharge, inspect or conduct hydrostatic tests of dry chemical fire extinguishers $75
(5) A license for any person to conduct hydrostatic tests of fire extinguisher cylinders that are listed and marked in conformance with the United States Department of Transportation (I.C.C.) regulations $75

(c) A penalty fee equal to 50 percent of the required annual renewal license or certificate of registration fee shall be added to such fee in all cases where the fee for a renewal is not paid on or before November 1.

SEC. 2. It is the intent of the Legislature that the increased revenues derived from Section 1 of this act be used as a source of funding to add additional personnel to the Office of the State Fire Marshal to perform field enforcement and inspections for purposes of Chapter 1.5 (commencing with Section 13160) of Division 12 of the Health and Safety Code.

SEC. 2.5. The sum of forty-three thousand dollars ($43,000) is hereby appropriated from the General Fund to the Office of the State Fire Marshal for the purposes described in Section 2 of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to provide a source of funding for the 1981 calendar year and thereafter for the performance by personnel of the Office of the State Fire Marshal of field enforcement and inspections to ensure the proper servicing of portable fire extinguishers for the protection and preservation of life and property, it is necessary that this act take effect immediately.

CHAPTER 889

An act to amend Section 2015.5 of the Code of Civil Procedure, and to amend Sections 27 and 118 of, and to add Section 777b to, the Penal Code, relating to perjury.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980.]

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

SECTION 1. Section 2015.5 of the Code of Civil Procedure is amended to read:

2015.5. Whenever, under any law of this state or under any rule, regulation, order or requirement made pursuant to the law of this state, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may with like force and effect be supported, evidenced, established or proved by the unsworn statement, declaration, verification, or certificate, in writing of such person which recites that it is certified or declared by him or her to be true under penalty of perjury, is subscribed by him or her, and (1), if executed within this state, states the date and place of execution, or (2), if executed at any place, within or without this state, states the date of execution and that it is so certified or declared under the laws of the State of California. The certification or declaration may be in substantially the following form:

(a) If executed within this state:

"I certify (or declare) under penalty of perjury that the foregoing is true and correct":

_____ _____

(Date and Place) (Signature)

(b) If executed at any place, within or without this state:

"I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct":

_____ _____

(Date) (Signature)

SEC. 2. Section 27 of the Penal Code is amended to read:

27. (a) The following persons are liable to punishment under the laws of this state:

1. All persons who commit, in whole or in part, any crime within this state;

2. All who commit any offense without this state which, if committed within this state, would be larceny, robbery, or embezzlement under the laws of this state, and bring the property

stolen or embezzled, or any part of it, or are found with it, or any part of it, within this state;

3. All who, being without this state, cause or aid, advise or encourage, another person to commit a crime within this state, and are afterwards found therein.

(b) Perjury, in violation of Section 118, is punishable also when committed outside of California to the extent provided in Section 118.

SEC. 3. Section 118 of the Penal Code is amended to read:

118. Every person who, having taken an oath that he will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which such an oath may by law of the State of California be administered, willfully and contrary to such oath, states as true any material matter which he knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which such testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he knows to be false, is guilty of perjury.

This section is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

SEC. 4. Section 777b is added to the Penal Code, to read:

777b. Perjury, in violation of Section 118, committed outside of the State of California is punishable in a competent court in the jurisdictional territory in this state in which occurs the act, transaction, matter, action, or proceeding, in relation to which the testimony, declaration, deposition, or certification was given or made.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 6. Section 1 of this act shall become operative on July 1, 1981.

CHAPTER 890

An act to amend Section 14301 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 13, 1980. Filed with Secretary of State September 14, 1980]

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

SECTION 1. Section 14301 of the Welfare and Institutions Code is amended to read:

14301. (a) The department shall determine, by actuarial methods, prospective per capita rates of payment for services provided under this chapter for Medi-Cal beneficiaries enrolled in a prepaid health plan. The rates of payment shall be determined annually, shall be effective no later than the first day of July each year, and shall not exceed the total per capita amount (including cost of administration) which the department estimates (with appropriate adjustments to provide actuarial equivalence) would be payable for all services and requirements covered under the prepaid health plan contract if all such services and requirements were to be furnished to Medi-Cal beneficiaries under the fee-for-service Medi-Cal program provided for by Chapter 7 (commencing with Section 14000).

In the event that there is any delay in the payment of the new annual rates determined pursuant to this subdivision, continued payment to the prepaid health plan of the rate in effect at the time the delay occurred shall be interim payment only, and shall be subject to increase or decrease, as the case may be, to the level of the new annual rates effective as of the first day of July.

Notwithstanding the foregoing provision, in the event that a contract amendment providing for the new annual rates has been executed by the department and a prepaid health plan, but has not yet received the approval of all required control agencies and departments by September 1, payment of the new annual rates shall commence no later than September 1. Contract amendments providing for the new annual rates shall provide that the prepaid health plan contractor agrees that by accepting payment of the new annual rates prior to final approval, such contractor stipulates to a confession of judgment for any amounts received in excess of the final approved rate. If the final approved rates differ from the rates set forth in such amendments, any underpayment by the state shall be paid by the department to the prepaid health plan within 30 days after final approval of such rates. Any overpayment by the state shall be recaptured by the state withholding the amount due from the prepaid health plan's next capitation check. If the amount to be withheld from subsequent capitation checks exceeds 25 percent of the appropriate capitation payment for that month, amounts up to 25 percent shall be withheld from each successive monthly capitation payment until such deficiencies are recovered by the state.

The contract shall provide the specific per capita rates, to be determined by sound actuarial methods on the basis of age, sex, and aid categories, which the state shall pay the prepaid health plan each

month for each beneficiary enrolled in the prepaid health plan, a detailed description of the specific actuarial method or methods and assumptions used in determining per capita rates, and a summary of the data base, including costs and inflation assumptions and utilization rates, which was used to determine per capita rates. In addition, the director shall engage and rely upon the services of an actuary or consulting actuary in determining prospective per capita rates.

(b) Any prepaid health plan with an operating experience and scale of operation deemed by the department to be insufficient to justify the application of an actuarially determined per capita rate, shall be reimbursed on a cost basis up to the fee-for-service maximum for services provided until such time as the director determines that a per capita method is reasonable, but not to exceed a period of one year. For purposes of this section, costs shall be net of intercompany profits in those circumstances where any of the following persons have a substantial financial interest, as defined by Section 14478, in any vendor to the prepaid health plan or any vendor to a subcontractor of the plan:

(1) Any person also having a substantial financial interest in the plan.

(2) Any director, officer, partner, trustee or employee of the plan.

(3) Any member of the immediate family of any person designated in paragraph (1) or (2).

(c) The obligations of a prepaid health plan shall be changed only by contract or contract amendment. Any such change may be made during a contract term or at the time of contract renewal, where there is a change in obligations required by federal or state law or regulation, or required by a change in the interpretation or implementation of any such law or regulation. If any such change in obligations occurs which affects the cost to a prepaid health plan of performing under the terms of its contract, then the per capita rates under the contract may be redetermined in the manner provided by subdivision (a) to reflect such change. During such period of time as is required to redetermine the per capita rates, payment to a prepaid health plan of the per capita rates in effect at the time such change occurred shall be considered interim payments and shall be subject to increase or decrease, as the case may be, effective as of the date on which such change is effective.

(d) The obligations of a prepaid health plan shall be changed only by contract or contract amendment wherein payment for the changes, whether payment results in an increase or decrease in the prior per capita rates paid to a prepaid health plan, shall be determined in accordance with this section and paid to affected prepaid health plans.

(e) Nothing contained in this section shall be construed as removing from a prepaid health plan the risk of beneficial or adverse effects, including inflation, which normally result from contracting to furnish health services.

CHAPTER 891

An act to add Section 1288 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980.]

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

SECTION 1. Section 1288 is added to the Health and Safety Code, to read:

1288. (a) Except as provided in subdivision (b), the licensee of each skilled nursing or intermediate care facility shall notify, in writing, all patients for whom the facility's services are not reimbursed pursuant to the provisions of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, or such patient's responsible agent, of any scheduled room rate increase at least 30 calendar days in advance of the increase.

(b) The licensee need not delay rate increases in order to provide the notice prescribed by subdivision (a) during any period when such delay would result in a loss to the facility of Medi-Cal reimbursement revenues available to it under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code due to increases in allowable Medi-Cal reimbursement rates (1) implemented by emergency regulation or (2) made retroactive. In such cases, the licensee shall provide the notice as many days in advance as is possible without loss of Medi-Cal revenues or, if not possible without Medi-Cal revenue losses, at the time of effectuating the rate increase. Nothing contained in this subdivision shall be construed as authorizing retroactive room rate increases for facility services to patients that are not reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 892

An act to add Section 30607.5 to the Public Resources Code, relating to coastal resources.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980.]

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

SECTION 1. Section 30607.5 is added to the Public Resources Code, to read:

30607.5. Within the City of San Diego, the commission shall not impose or adopt any requirements in conflict with the provisions of the plan for the protection of vernal pools approved and adopted by the City of San Diego on June 17, 1980, following consultation with state and federal agencies, and approved and adopted by the United States Army Corps of Engineers in coordination with the United States Fish and Wildlife Service.

CHAPTER 893

An act to add Sections 99236 and 99313.3 to the Public Utilities Code, to add Section 183.5 to the Streets and Highways Code, to add Section 2 to Chapter 460 of the Statutes of 1978, and to amend Sections 62 and 63 of Chapter 161 of the Statutes of 1979, relating to transportation.

[Approved by Governor September 13, 1980. Filed with Secretary of State September 14, 1980]

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

SECTION 1. Section 99236 is added to the Public Utilities Code, to read:

99236. No funds from the fund shall be budgeted, allocated, or expended for any project which calls for any change in passenger train stations or loading platforms used by the National Railroad Passenger Corporation unless the change has been submitted to the National Railroad Passenger Corporation for review and comment which may include a recommendation for a modification in the change. If the agency submitting the change elects not to accept the recommendation of the National Railroad Passenger Corporation, it shall submit the matter to the Secretary of the Business and Transportation Agency who shall determine whether the disputed recommendation for a modification in the change shall be followed by the agency.

SEC. 2. Section 99313.3 is added to the Public Utilities Code, to

read:

99313.3. No funds from the account shall be budgeted, allocated, or expended for any project which calls for any change in passenger train stations or loading platforms used by the National Railroad Passenger Corporation unless the change has been submitted to the National Railroad Passenger Corporation for review and comment which may include a recommendation for a modification in the change. If the agency submitting the change elects not to accept the recommendation of the National Railroad Passenger Corporation, it shall submit the matter to the Secretary of the Business and Transportation Agency who shall determine whether the disputed recommendation for a modification in the change shall be followed by the agency.

SEC. 3. Section 183.5 is added to the Streets and Highways Code, to read:

183.5. No funds from the State Highway Account in the State Transportation Fund shall be budgeted, allocated, or expended for any project which calls for any change in passenger train stations or loading platforms used by the National Railroad Passenger Corporation unless the change has been submitted to the National Railroad Passenger Corporation for review and comment which may include a recommendation for a modification in the change. If the agency submitting the change elects not to accept the recommendation of the National Railroad Passenger Corporation, it shall submit the matter to the Secretary of the Business and Transportation Agency who shall determine whether the disputed recommendation for a modification in the change shall be followed by the agency.

SEC. 4. Section 2 is added to Chapter 460 of the Statutes of 1978, to read:

Sec. 2. No funds appropriated pursuant to this act shall be budgeted, allocated, or expended for construction of a project which calls for any change in passenger train stations or loading platforms used by the National Railroad Passenger Corporation unless the change has been submitted to the National Railroad Passenger Corporation for review and comment which may include a recommendation for a modification in the change. If the agency submitting the change elects not to accept the recommendation of the National Railroad Passenger Corporation, it shall submit the matter to the Secretary of the Business and Transportation Agency who shall determine whether the disputed recommendation for a modification in the change shall be followed by the agency.

SEC. 5. Section 62 of Chapter 161 of the Statutes of 1979 is amended to read:

Sec. 62. From funds appropriated to it for such purposes from the Transportation Planning and Development Account in the State Transportation Fund, the California Transportation Commission shall allocate, on the recommendation of the Department of Transportation, to projects listed in the most recent report of the

department prepared pursuant to Section 99319 of the Public Utilities Code for the purpose of matching available federal or local funds. Priority shall be given to projects for which local funds have been committed.

The commission may augment the original project allocation by not more than 10 percent for contingency and administrative purposes.

SEC. 6. Section 63 of Chapter 161 of the Statutes of 1979 is amended to read:

Sec. 63. No funding shall be available under Sections 61 and 62 of this act for projects serving primarily patrons of one mode of transportation such as bus shelters, parking lots, and bus turnarounds which could be constructed with funds available pursuant to Section 99268.7 of the Public Utilities Code; nor shall funds be budgeted, allocated, or expended for any project which calls for any change in passenger train stations or loading platforms used by the National Railroad Passenger Corporation unless the change has been submitted to the National Railroad Passenger Corporation for review and comment which may include a recommendation for a modification in the change. If the agency submitting the change elects not to accept the recommendation of the National Railroad Passenger Corporation, it shall submit the matter to the Secretary of the Business and Transportation Agency who shall determine whether the disputed recommendation for a modification in the change shall be followed by the agency.

SEC. 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 894

An act to amend Section 12023 of, and to add Section 12023.5 to, the Food and Agricultural Code, relating to agricultural pest control.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980.]

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

SECTION 1. Section 12023 of the Food and Agricultural Code is amended to read:

12023. An agricultural pest control adviser license may be refused or may be revoked or suspended by the director as necessary to carry out the purposes of this division. Cause for refusal, revocation, or

suspension shall include, but shall not be limited to the following:

(a) Failure to put a recommendation in writing.

(b) The making of false or fraudulent statements in any written recommendation.

(c) Failure or refusal to comply with any provision of this chapter, or any other regulation adopted by the agricultural commissioner.

(d) Failure or refusal to comply with any provisions of this division or of Division 7 (commencing with Section 12501) relating to pesticides or regulation of the department adopted pursuant to such provisions.

(e) Failure to qualify by examination in at least one of the categories in Section 12022.

(f) Unprofessional conduct, as defined in Section 12023.5.

SEC. 2. Section 12023.5 is added to the Food and Agricultural Code, to read:

12023.5. In addition to any other provision of this code, unprofessional conduct shall constitute a basis for refusal, revocation, or suspension of an agricultural pest control license. "Unprofessional conduct" means either of the following:

(a) Repeated acts of recommending the clearly excessive use of a pesticide or any method or device for the control of plant, animal, or other pests.

(b) Repeated acts of recommending the use of an ineffective pesticide or any ineffective method or device for the control of plant, animal, or any other pests.

CHAPTER 895

An act relating to tide and submerged lands granted to the City of Vallejo.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980]

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

SECTION 1. All of that land described in Section 2 granted by the State of California to the City of Vallejo by the provisions of Chapter 310 of the Statutes of 1913, an act entitled "An act conveying to the City of Vallejo certain tide lands and lands of the State of California lying under inland navigable waters within the boundaries of the said city, situate in the Napa creek, the Mare Island straits and the straits of Carquinez, including the right to wharf out therefrom to the city of Vallejo, in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof," approved June 11, 1913, which has been filled and can no longer be used for commerce, navigation, or fisheries, is hereby declared to have ceased to be tide lands or submerged lands.

The Legislature hereby finds and determines that such lands have been reclaimed pursuant to and in the course of a highly beneficial public program of harbor development and that such lands constitute a relatively small parcel of the total acreage involved. Any reference in this act to Chapter 310 of the Statutes of 1913 shall be deemed to include the supplements to such chapter enacted by Chapter 24 of the Statutes of 1963.

The State Lands Commission, as trustee for the State of California, shall negotiate an exchange with the City of Vallejo for lands of equal or greater value upon which the public trust for commerce, navigation, and fisheries, and all terms, trusts, and restrictions imposed by Chapter 310 of the Statutes of 1913, shall be imposed. The parcels described in Section 2 shall be freed from the public trust, and from all terms, trusts, and restrictions imposed by Chapter 310 of the Statutes of 1913, upon completion of such exchange.

SEC. 2. Subject to Section 1, the following described land shall be freed from the public trust for commerce, navigation, and fisheries, and from all terms, trusts, and restrictions imposed by Chapter 310 of the Statutes of 1913:

The two parcels of land situated in the City of Vallejo, County of Solano, California, being more particularly described as follows:

(a) All of the lands described in Chapter 310 of the Statutes of 1913 which lie east of the easterly right-of-way lines of Marina Vista Way (Mare Island Boulevard), as shown on the 1979 Solano County Assessor's Map in Book 55 at Pages 16 and 17, within the Marina Vista Project of the Redevelopment Agency of the City of Vallejo.

(b) All of the lands described in Chapter 310 of the Statutes of 1913 which lie south of the southerly right-of-way line of Mare Island Causeway and east of the easterly right-of-way line and the northerly extension thereof of Harbor Way as shown on the 1979 Solano County Assessor's Map in Book 55 at Page 1, within the Municipal Marina portion of the Vallejo Waterfront Redevelopment Project of the Redevelopment Agency of the City of Vallejo.

CHAPTER 896

An act to amend Sections 1567.5, 1567.6, and 1567.9 of the Health and Safety Code, relating to community care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980]

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

SECTION 1. Section 1567.5 of the Health and Safety Code is amended to read:

1567.5. A license for a proposed community care facility for wards

of the juvenile court shall be denied if the proposed facility is located within 300 feet, measured from property boundary line to property boundary line, of an existing community care facility for wards of the juvenile court. The county or any city in the county may adopt an ordinance requiring the distance between its respective property boundary lines of facilities for wards of the juvenile court to be greater than 300 feet, but, in no case, more than one mile, if such a standard is more appropriate to local conditions; provided, that the required distance shall be uniform for all residential zones in the city or county; and, provided further, that the required distance does not impair the ability of the city or county to provide a number and variety of licensed facilities commensurate to the needs of wards of the juvenile court who are residents of the county. The county or any city in the county may require the local planning director to make a finding, as a precondition of licensure, as to whether the location of the proposed facility would be in violation of this section or of the distance standard in the local ordinance adopted under this section. The application for city or county planning approval shall be deemed approved if no action is taken within 60 days after the application is filed with the local planning director. Each city and each county shall notify the State Department of Social Services of the approval or disapproval of each application pursuant to this section.

This section applies only to Los Angeles, Santa Clara, and Riverside Counties.

This section shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

SEC. 2. Section 1567.6 of the Health and Safety Code is amended to read:

1567.6. The governing body of the county or of any city in the county may require, within a reasonable time after the effective date of the amendments to this section enacted by the Statutes of 1980, as determined by the State Department of Social Services, that existing licensed community care facilities for wards of the juvenile court which have not already obtained local zoning approval, obtain approval from the local planning director.

(a) Local zoning approval may be denied where the governing body finds that:

(1) The applying facility is located within 300 feet, measured from property boundary line to property boundary line, of another existing community care facility for wards of the juvenile court; and

(2) The presence of the applying facility at its present location has resulted in the surrounding neighborhood having to sustain a disproportionate and unreasonable level of vandalism, violence, or other acts of disruption.

(b) The State Department of Social Services, county probation departments, and local law enforcement agencies shall make their records available to, and shall make reasonable efforts to assist, the agents or representatives of the local planning director who are

seeking to determine whether the presence of an existing facility at its present location has resulted in the surrounding neighborhood having to sustain a disproportionate and unreasonable level of vandalism, violence, or other acts of disruption.

(c) The county and any city may adopt an ordinance requiring the distance between the respective boundary lines of community care facilities for wards of the juvenile court to be greater than 300 feet, but in no case more than one mile, if such a standard is more appropriate to local conditions, provided that the following conditions are met:

(1) The required distance shall be uniform for all residential zones in the county or the city; and

(2) The required distance does not unreasonably impair the ability of the city or county to provide a number and variety of licensed community care facilities commensurate to the needs of wards of the juvenile court who originate from the county.

(d) The application for city or county planning approval shall be deemed approved if no action is taken during the period of one year after the effective date of this section.

(e) A decision to deny local zoning approval for an existing facility may be challenged through the routine permit appeals process of the county or city.

This section applies only to Los Angeles, Santa Clara, and Riverside Counties.

This section shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute which is chaptered before January 1, 1982, deletes or extends such date.

SEC. 3. Section 1567.9 of the Health and Safety Code is amended to read:

1567.9. Whether or not unrelated persons are living together, a community care facility for wards of the juvenile court which serves six or fewer persons shall be considered a residential use of property for the purposes of all local zoning ordinances. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property.

For the purpose of all local ordinances, a community care facility for wards of the juvenile court which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential facility is a business run for profit or differs in any other way from a single family residence.

The provisions of this section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a community care facility for wards of the juvenile court which serves six or fewer persons, as long as such restrictions are identical to those

applied to other single family residences.

The provisions of this section shall not be construed to forbid the application to a community care facility for wards of the juvenile court of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity; provided, that such ordinance does not distinguish community care facilities for wards of the juvenile court which serve six or fewer persons from other single family dwellings; and, provided further, that such ordinance does not distinguish residents of such community care facilities for wards of the juvenile court from persons who reside in other single family dwellings.

A local ordinance which distinguishes or has the effect of distinguishing community care facilities for wards of the juvenile court which serve six or fewer persons from other single family dwellings shall be void and of no effect, as applied to such facilities.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a community care facility for wards of the juvenile court which serves six or fewer persons which is not required of a single family residence in the same zone. However, nothing in this section shall be construed to restrict the authority of a local governing body, as provided in Sections 1567.5 and 1567.6, to regulate the distances between community care facilities for wards of the juvenile court or to require local zoning approval for such facilities.

This section applies only to Los Angeles, Santa Clara, and Riverside Counties.

This section shall remain in effect only until January 1, 1982, and as of such date is repealed.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Existing laws which prevent overconcentration of community care facilities serving wards of the juvenile court in certain communities are effective only until September 19, 1980. In order that such overconcentration may continue to be prevented, it is necessary that this bill take effect immediately.

CHAPTER 897

An act to add Section 7215.5 of the Business and Professions Code, relating to guide dogs for the blind.

[Approved by Governor September 13, 1980 Filed with Secretary of State September 14, 1980.]

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

SECTION 1. Section 7215.5 is added to the Business and Professions Code, to read:

7215.5. During the first year following the successful training of each person-dog unit, and release from a guide dog training school of such trained person supplied with a guide dog, the school may retain title to the trained dog. During such probationary year, the school may enter into a contractual agreement with the user of the dog describing the conditions under which the user may maintain the status of legal custodian of the dog. During the probationary year, the school, acting in what it deems to be the best interest of the user, the dog, or the public, may temporarily or permanently resume possession of such dog.

Within 15 days after the end of each calendar year, each licensed school shall report to the board the following:

(1) The number of dog ownership titles transferred to dog users pursuant to this section during the calendar year.

(2) The number of title recoveries and repossessions made by the school pursuant to this section during the calendar year.

(3) The number, type, and amount of charges assessed for followup training, instruction, veterinary, or boarding services, pursuant to this section, which make a distinction between users who have acquired title to their dogs and users who have not acquired such title.

(4) The views of the governing entity of the school as to any problems or concerns relative to compliance with the provisions of this section, along with recommendations for appropriate legislative or administrative changes commensurate with the purposes of this section.

The board shall forward to the Governor and the Legislature, on or before March 1 of each year, a copy of each school report along with its own analysis, comments and appropriate recommendations relative to such reports.

Immediately upon completion of the first year following the successful training referred to above, if the training school and the dog user are mutually satisfied with the operation of the person-dog unit, title to the dog shall be transferred to the blind user if the user so desires. Transfer of title shall be evidenced by a transfer of title agreement executed by both parties thereto. The school may retain an option to recover title and possession to the guide dog subject to

conditions described in the transfer of title agreement. Such conditions may include, but are not limited to, the following:

(1) If in the school's opinion, the guide dog is being misused or neglected or mistreated by its blind user.

(2) If the blind person to whom the dog was furnished has ceased to use the dog as a guide and the dog is not too old to be retrained as a guide for another blind person.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease such use.

The guide dog school shall make no distinction as to the quality or extent of follow-up or supportive services available to its blind graduates based on whether they elect to acquire title to their dogs or allow title to remain with the school after the probationary year. The school may, however, make such a distinction when assessing reasonable and appropriate charges for follow-up training, instruction, veterinary, or boarding services.

No applicant for admission to a guide dog training school, nor any enrolled student, shall be required by the school prior to completion of his or her training to sign any instrument or to announce his or her intention regarding transfer of title of the dog from the school to himself or herself upon completion of the training and probation period.

CHAPTER 898

An act to add Section 99317.9 to the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1980. Filed with Secretary of State September 14, 1980.]

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

SECTION 1. Section 99317.9 is added to the Public Utilities Code, to read:

99317.9. Funds transferred to the account for guideway projects, other than funds transferred pursuant to Section 7102 of the Revenue and Taxation Code, shall be allocated by the commission for those projects included in the appropriate regional transportation improvement program and the state transportation improvement program.

In allocating the funds, the commission may advance, or set aside, funds for guideway projects under terms and conditions established by the commission.

Notwithstanding Section 99317.8, the commission, in determining the priorities for allocation of funds to guideway projects, shall

consider, among other criteria, project readiness and whether or not federal funds are available for the projects pursuant to Section 103(d) (4) of Title 23 of the United States Code in a county as a result of a deletion of a segment from the National System of Interstate and Defense Highways in the county.

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

There is an urgent, immediate need to expedite the California Transportation Commission's review of various proposed exclusive public mass transit guideway projects in order to maximize the efficient use of available federal and state mass transit assistance funds and to ensure that the provisions of this act are considered in the development of the 1981 state transportation improvement program. Thus, it is necessary that this act take effect immediately.

CHAPTER 899

An act to add Sections 17702.1 and 17705.1 to, and to add and repeal Section 66104 and Chapter 23 (commencing with Section 17760) of Part 10 of the Education Code, to add, repeal, and add Article 1.8 (commencing with Section 16368) to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to amend, add, and repeal Section 6217 of, and to add and repeal Division 16 (commencing with Section 26400) of, the Public Resources Code, and to repeal Section 100.1 of the Revenue and Taxation Code, relating to capital outlay, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980]

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

SECTION 1. Section 17702.1 is added to the Education Code, to read:

17702.1. (a) As used in this chapter, construction shall include, but shall not be limited to, reconstruction, remodeling, and replacement of facilities, and the performance of deferred maintenance activities on facilities pursuant to rules and regulations regarding such activities as may be adopted by the board.

(b) Notwithstanding the provisions of Section 17721, deferred maintenance activities may be approved for funding on structures constructed less than 30 years prior to the date of approval of the project applied for under this chapter.

SEC. 2. Section 17705.1 is added to the Education Code, to read:

17705.1. On or before June 30, 1981, and on or before June 30 of

each year thereafter, the board shall approve a plan specifying (a) the amount of funds to be allocated in the forthcoming fiscal year for the purposes of deferred maintenance activities and (b) the manner in which such funds shall be allocated to applicant districts.

SEC. 3. Chapter 23 (commencing with Section 17760) is added to Part 10 of the Education Code, to read:

CHAPTER 23. CAPITAL OUTLAY REVENUE FROM STATE LANDS

17760. The State Allocation Board shall apportion funds to school districts for capital outlay projects from funds transferred to the State School Building Lease-Purchase Fund pursuant to subdivision (f) of Section 6217 of the Public Resources Code.

17761. (a) Except as provided in subdivision (b), each school district to which funds are allocated pursuant to this chapter shall provide 10 percent of the cost of the project from other district funds.

(b) The requirement prescribed by subdivision (a) may be waived by the State Allocation Board in a case of hardship, as defined by the State Allocation Board.

17762. No apportionment may be made to a school district which has a surplus school site unless the school district has justified the existence of the surplus school site to the State Allocation Board, or the surplus site which, under an existing lease having a term of 10 years, initially executed on or before July 1, 1974, was leased to a city with a population of less than 100,000 for park purposes, was improved at city expense, and is presently used by the city for public park purposes.

17763. The State Allocation Board shall adopt rules and regulations for the approval of projects and the apportionment of funds under this chapter.

Such rules and regulations shall recognize and provide for unique circumstances of topography, emerging population trends and fiscal situations of a district and shall identify those unique circumstances which permit a district to be exempted from the 10-percent matching requirement of subdivision (a) of Section 17761, in whole or in part, and from the surplus school site justification required pursuant to Section 17762.

The board shall transmit copies of the proposed rules and regulations, upon their adoption, to the Speaker of the Assembly, the President pro Tempore of the Senate, the Minority Leader of the Assembly, the Minority Leader of the Senate, the chair and ranking minority member of the Assembly Education Committee and of the Senate Education Committee, and the Chairman of the Joint Legislative Budget Committee.

On January 1, 1982, and on January 1 of each year thereafter following the fiscal year in which this chapter has been operative, the Legislative Analyst shall report to the Legislature regarding the number of, and the reasons for, waivers of the 10 percent matching requirement of subdivision (a) of Section 17761 and exemptions from

the surplus school site justification required pursuant to Section 17762.

17764. This chapter shall remain in effect only until the later of the following dates, and on that date is repealed, unless a later enacted statute changes the requirements of this section:

(a) The operative date of the Budget Act for the 1984–85 fiscal year.

(b) The operative date of the Budget Act for a fiscal year after 1983–84 which Budget Act does not contain a section authorizing the operation of this section for that fiscal year.

SEC. 4. Section 66104 is added to the Education Code, to read:

66104. (a) The Legislature finds and declares that even in situations of declining enrollment there is a need for capital expenditures at community colleges to maintain, equip for access by the physically handicapped, and insure seismic safety of community college facilities. Therefore, it is the intent of the Legislature that moneys be appropriated from the fund by the Budget Act to community college districts for community college capital outlay purposes.

Appropriations subject to this chapter shall generally require each community college district to provide 10 percent of the cost of the project, except in cases of hardship, as determined by the Board of Governors of the California Community Colleges.

No appropriation subject to this chapter shall be made for capital outlay purposes for a community college district which has one or more surplus sites which cannot be justified pursuant to rules and regulations regarding such sites as may be adopted by the Board of Governors of the California Community Colleges.

The Board of Governors of the California Community Colleges shall adopt rules and regulations covering, as appropriate, application and approval procedures under this chapter.

Such rules and regulations shall recognize and provide for unique circumstances of topography, emerging population trends and fiscal situations of a district and shall identify those unique circumstances which permit a district to be exempted from the 10-percent matching requirement of this subdivision, in whole or in part.

(b) On January 1, 1982, and on January 1 of each year thereafter following the fiscal year in which this section has been operative, the Legislative Analyst shall report to the Legislature regarding the number of, and the reasons for, waivers of the 10-percent matching requirement and the surplus school site justification provision of subdivision (a).

(c) This section shall remain in effect only until the later of the following dates, and on that date is repealed, unless a later enacted statute changes the requirements of this subdivision:

(1) The operative date of the Budget Act for the 1984–85 fiscal year.

(2) The operative date of the Budget Act for a fiscal year after 1983–84 which does not contain a section authorizing this section to

remain operative for that fiscal year.

SEC. 5. Article 1.8 (commencing with Section 16368) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 1.8. Special Account for Capital Outlay

16368. The Special Account for Capital Outlay is hereby created as a special account in the General Fund. This account is a reserve fund within the meaning of Section 5 of Article XIII B of the California Constitution.

16368.1. Funds deposited in the Special Account for Capital Outlay may be appropriated by the Legislature for the following purposes:

(a) To augment the allocations of funds pursuant to subdivisions (e), (f), (g), (h), and (i) of Section 6217 of the Public Resources Code.

(b) Capital outlay for publicly owned structures, including, but not limited to, state hospitals, county hospitals, county jails, prisons, and state office buildings; provided, however, that (1) any nonstate-owned structure is approved by the State Allocation Board and recommended by the board to the Legislature and the Governor for funding from the Special Account for Capital Outlay, and (2) as a condition of approval and recommendation to the Legislature and the Governor, the State Allocation Board requires the local agency which would own and control the proposed structure to contribute toward the cost of such structure a percentage of such cost reasonably within its means, as determined by the board in accordance with criteria formulated by the board.

(c) Maintenance of existing publicly funded structures, including, but not limited to, painting, roof repair, repair or replacement of plumbing or electrical systems or parts thereof, landscaping, and repairs designed to reduce energy consumption which are estimated to pay for themselves within five years; provided, however, that (1) any maintenance for a nonstate-owned structure is approved by the State Allocation Board and recommended by the board to the Legislature and the Governor for funding from the Special Account for Capital Outlay, and (2) as a condition of approval and recommendation to the Legislature and the Governor, the State Allocation Board requires the local agency which owns and controls the structure upon which the proposed maintenance is to be performed to contribute toward the cost of such structure a percentage of such cost reasonably within its means, as determined by the board in accordance with criteria formulated by the board.

(d) Any other purpose deemed appropriate by the Legislature.

16368.2. This article shall remain in effect only until the later of the following dates, and on that date is repealed, unless a later enacted statute changes the requirements of this section:

(1) The operative date of the Budget Act for the 1984–85 fiscal

year.

(2) The operative date of the Budget Act for a fiscal year after 1983–84 which does not contain a section authorizing this section to remain operative for that fiscal year.

SEC. 5.5. Article 1.8 (commencing with Section 16368) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 1.8. Special Account for Capital Outlay

16368. The Special Account for Capital Outlay is hereby created as a special account in the General Fund. This account is a reserve fund within the meaning of Section 5 of Article XIII B of the California Constitution.

16368.1. Funds deposited in the Special Account for Capital Outlay may be appropriated by the Legislature for the following purposes:

(a) For transfer to any of the following funds:

(1) Capital Outlay Fund for Public Higher Education.

(2) State School Building Lease-Purchase Fund.

(3) State Parks and Recreation Fund.

(4) Transportation Planning and Development Account in the State Transportation Fund.

(b) Capital outlay for publicly owned structures, including, but not limited to, state hospitals, county hospitals, county jails, prisons, and state office buildings; provided, however, that (1) any nonstate-owned structure is approved by the State Allocation Board and recommended by the board to the Legislature and the Governor for funding from the Special Account for Capital Outlay, and (2) as a condition for approval and recommendation to the Legislature and the Governor, the State Allocation Board requires the local agency which would own and control the proposed structure to contribute toward the cost of such structure a percentage of such cost reasonably within its means, as determined by the board in accordance with criteria formulated by the board.

(c) Maintenance of existing publicly funded structures, including, but not limited to, painting, roof repair, repair or replacement of plumbing or electrical systems or parts thereof, landscaping, and repairs designed to reduce energy consumption which are estimated to pay for themselves within five years; provided, however, that (1) any maintenance for a nonstate-owned structure is approved by the State Allocation Board and recommended by the board to the Legislature and the Governor for funding from the Special Account for Capital Outlay, and (2) as a condition for approval and recommendation to the Legislature and the Governor, the State Allocation Board requires the local agency which owns and controls the structure upon which the proposed maintenance is to be performed to contribute toward the cost of such structure a percentage of such cost reasonably within its means as determined

by the board in accordance with criteria formulated by the board.

(d) Any other purpose deemed appropriate by the Legislature.

16368.2. This article shall become operative upon the date that Article 1.8 (commencing with Section 16368) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, as added by Section 5 of the act that added this article to the code, is repealed unless a later enacted statute changes the requirements of this section.

SEC. 6. Section 6217 of the Public Resources Code is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property which has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and such sums shall be applied to the following obligations in the following order:

(a) To the General Fund such revenue as necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for such purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for each of the fiscal years 1979–80, 1980–81, 1981–82, 1982–83, and 1983–84 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this subdivision, by the Secretary of the Resources Agency or his designee. During the fiscal year 1983–84, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

The Secretary of the Resources Agency shall appoint an advisory panel, which shall do all of the following:

(1) Identify state needs which might be met through sea grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination.

(2) Review all applications for funding under this subdivision and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on sea grant research projects subsequent to their approval and funding under this subdivision.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this subdivision.

The members of such advisory panel shall serve at the pleasure of the Secretary of the Resources Agency. The advisory panel shall consist of 11 members composed of the following persons:

(1) A representative of the Department of Navigation and Ocean Development.

(2) A representative of the Department of Conservation.

(3) A representative of the Department of Fish and Game.

(4) The executive director of the California Coastal Zone Conservation Commission or his designee.

(5) A representative of the fish industry.

(6) A representative of the aquaculture industry.

(7) A representative of the ocean engineering industry.

(8) A representative of the University of California.

(9) A representative of the California State University and Colleges.

(10) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(11) A representative of the State Lands Commission. The Secretary of the Resources Agency shall designate one member of the panel to serve as its chairman. Panel members shall serve without compensation.

The sea grant research projects selected for state support under this subdivision shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this subdivision is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this subdivision shall be construed to preclude the application for funding of any project which would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the fiscal year 1980–81, the amount necessary to provide for an unencumbered balance available for appropriation on July 1, 1980, of one hundred twenty-five million dollars ($125,000,000), and for each

fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each such year of one hundred twenty-five million dollars ($125,000,000).

(f) To the State School Building Lease-Purchase Fund for the fiscal year 1980–81, the amount of one hundred million dollars ($100,000,000), and for each fiscal year thereafter, the amount of two hundred million dollars ($200,000,000).

(g) To the Energy and Resources Fund, the amount of one hundred twenty million dollars ($120,000,000) for the fiscal year 1980–81, and for each fiscal year thereafter, the amount necessary to provide for a balance available for appropriation on July 1 of each such fiscal year of one hundred twenty million dollars ($120,000,000).

Notwithstanding this subdivision, after December 31, 1981, no funds shall be transferred to the Energy Account created by Section 26401 unless a Department of Energy has been created or a reorganization of the State Energy Resources Conservation and Development Commission either has been enacted by the Legislature or has been carried out under a reorganization plan accepted by the Legislature pursuant to Section 12080.5 of the Government Code.

(h) To the State Parks and Recreation Fund, the amount of thirty-five million dollars ($35,000,000) for the fiscal year 1980–81 and for each fiscal year thereafter.

(i) To the Transportation Planning and Development Account in the State Transportation Fund to finance capital outlay costs of exclusive public mass transit guideway projects, including the acquisition of rolling stock, the amount of twenty-five million dollars ($25,000,000) for fiscal year 1981–82 and for each fiscal year thereafter.

(j) To the Special Account for Capital Outlay in the General Fund, the balance of all revenue in excess of that distributed pursuant to subdivisions (a), (b), (c), (d), (e), (f), (g), (h), and (i) of this section.

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be filed with the Controller and the Controller shall draw his warrant against the General Fund in payment of such refund from any appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

This section shall remain in effect only until the later of the following dates, and on that date is repealed, unless a later enacted statute changes the requirements of this paragraph:

(1) The operative date of the Budget Act for the 1984–85 fiscal year.

(2) The operative date of the Budget Act for a fiscal year after the 1983–84 fiscal year which does not contain a section authorizing this

section to remain operative for that fiscal year.

SEC. 7. Section 6217 is added to the Public Resources Code, to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property which has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and such sums shall be applied to the following obligations in the following order:

(a) To the General Fund such revenue as necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for such purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for each of the fiscal years 1979–80, 1980–81, 1981–82, 1982–83, and 1983–84 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this subdivision, by the Secretary of the Resources Agency or his designee. During the fiscal year 1983–84, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

The Secretary of the Resources Agency shall appoint an advisory panel, which shall do all of the following:

(1) Identify state needs which might be met through sea grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean

resources planning and management, and marine data acquisition and dissemination.

(2) Review all applications for funding under this subdivision and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on sea grant research projects subsequent to their approval and funding under this subdivision.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this subdivision.

The members of such advisory panel shall serve at the pleasure of the Secretary of the Resources Agency. The advisory panel shall consist of 11 members composed of the following persons:

(1) A representative of the Department of Navigation and Ocean Development.

(2) A representative of the Department of Conservation.

(3) A representative of the Department of Fish and Game.

(4) The executive director of the California Coastal Zone Conservation Commission or his designee.

(5) A representative of the fish industry.

(6) A representative of the aquaculture industry.

(7) A representative of the ocean engineering industry.

(8) A representative of the University of California.

(9) A representative of the California State University and Colleges.

(10) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(11) A representative of the State Lands Commission. The Secretary of the Resources Agency shall designate one member of the panel to serve as its chairman. Panel members shall serve without compensation.

The sea grant research projects selected for state support under this subdivision shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this subdivision is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this subdivision shall be construed to preclude the application for funding of any project which would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the fiscal year 1980–81, the amount necessary to provide for an unencumbered balance available for appropriation on July 1, 1980, of one hundred twenty-five million dollars ($125,000,000), and for each fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each such year of one hundred twenty-five million dollars ($125,000,000).

(f) To the Special Account for Capital Outlay, the balance of all revenue in excess of the amount distributed under subdivisions (a), (b), (c), (d), and (e).

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be filed with the Controller and the Controller shall draw his warrant against the General Fund in payment of such refund from any appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

This section shall become operative on the later of the following dates, unless a later enacted statute changes the requirements of this paragraph:

(1) The operative date of the Budget Act for the 1984–85 fiscal year.

(2) The operative date of the Budget Act for a fiscal year after 1983–84 which does not contain a section authorizing Section 6217, as amended by Section 6 of the act that added this section to the Public Resources Code, to remain operative for that fiscal year.

SEC. 8. Division 16 (commencing with Section 26400) is added to the Public Resources Code, to read:

DIVISION 16. ENERGY AND RESOURCES FUND

26400. There is in the State Treasury the Energy and Resources Fund, which fund is hereby created.

26401. (a) Within the Energy and Resources Fund there is hereby created the Energy Account and the Resources Account. The annual budget document shall propose and the annual Budget Bill shall allocate and divide the money in the fund between such accounts.

(b) It is the intent of the Legislature that funds from the Energy and Resources Fund be used only for short-term projects and not for any ongoing programs.

(c) Moneys in the Energy Account may be appropriated by the Legislature solely for energy projects and programs deemed appropriate by the Legislature.

(d) All appropriations from the Energy Account or the Resources Account shall be made by the annual Budget Bill.

(e) In applying the provisions of this section to the selection of individual energy programs and projects for funding, priority shall be given to those programs and projects which best fulfill all of the following criteria:

(1) Have the greatest potential for reducing the use of oil and natural gas to produce energy.

(2) Have the greatest potential for transferability and widespread use throughout the state by the year 1990.

(3) Have the highest degree of feasibility.

26403. Programs and projects eligible for funding from the Resources Account shall be limited to any of the following:

(1) Projects under the Roberti-Z'berg Urban Open-Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public Resources Code).

(2) Appropriations to the State Coastal Conservancy for grants to public and private agencies for acquisition, development, rehabilitation, restoration, operation, and maintenance of real property and facilities which provide public access ways to or along the coast or the shoreline of San Francisco Bay.

(3) Wetland protection, preservation, restoration, and enchancement projects in accordance with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5 of the Public Resources Code), or, in accordance with provisions governing the State Coastal Conservancy (Division 21 (commencing with Section 31000) of the Public Resources Code).

(4) Restoration, enhancement, and preservation of wildlife habitat on federal lands pursuant to the Sikes Act (16 U.S.C. Sec. 670a, et seq.).

(5) Acquisition and development of real property for wildlife management in accordance with the purposes of the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code).

(6) Reforestation, urban forestry, and forest improvement projects in accordance with the provisions of Part 2.5 (commencing with Section 4790) of Division 4 of the Public Resources Code.

(7) Water reclamation, watershed management, water conservation, instream use, and drainage management programs approved by the Director of Water Resources or the State Water Resources Control Board.

(8) Watershed restoration, erosion control, fire hazard reduction, land conservation, and fish and wildlife habitat improvement projects.

(9) Acquisition, restoration, and preservation of habitat for rare and endangered species.

(10) Programs for the prevention of soil loss and soil degradation.

(11) Programs for the preservation and protection of prime agricultural lands.

(12) Shoreline erosion control projects.

(13) Mitigation of environmental damage resulting from gas or oil production on state lands.

(14) Programs to develop a computer-based mapping system to store, refine, analyze, and display resource data.

(15) Programs for development and enhancement of renewable agricultural resources.

(16) Programs to safeguard public and environmental health from hazardous materials.

(17) Programs for geothermal resources assessment.

(18) Other programs which enhance and conserve renewable and nonrenewable resources.

26404. The provisions of Sections 26401 to 26403, inclusive, shall not apply to appropriations and expenditures from the Energy and Resources Fund for fiscal year 1980–81. Such provisions shall apply beginning with fiscal year 1981–82 and for each fiscal year thereafter.

26405. The Legislative Analyst shall review the programs and projects funded from the Energy and Resources Fund and shall submit his or her evaluation thereof to the Legislature, including any recommendations for changes in the criteria and priorities established by this division, on or before January 1, 1984, and in January of each calendar year thereafter.

26406. The Director of Finance shall cause all moneys in the Energy and Resources Fund which are in excess of current requirements to be invested and reinvested from time to time in securities described in Section 16430 of the Government Code, and such securities may be sold or exchanged if in his opinion such sale or exchange is in the best interests of the state in effectuating the purposes of this chapter. All income derived from such investment, reinvestment, sale, or exchange shall be credited to the Energy and Resources Fund.

26407. This division shall remain in effect only until the later of the following dates, and on that date is repealed, unless a later enacted statute changes the requirements of this section:

(a) The operative date of the Budget Act for the 1984–85 fiscal year.

(b) The operative date of the Budget Act for a fiscal year after 1983–84 which Budget Act does not contain a section authorizing the operation of this section for that fiscal year.

SEC. 9. Section 100.1 of the Revenue and Taxation Code is repealed.

SEC. 10. If, on June 30, 1980, there is an unemcumbered balance available for appropriation in the Capital Outlay Fund for Public Higher Education in excess of one hundred twenty-five million dollars ($125,000,000), the State Treasurer shall, on the operative date of this act, deposit such excess amount in the funds, up to the amounts, and in the priority order specified in subdivisions (f), (g), (h), and (i) of Section 6217 of the Public Resources Code. To the extent of and in the amount of the deposit of such excess funds, this tranfer shall reduce the deposit of funds pursuant to the schedule set forth in Section 6217 of the Public Resources Code for the fiscal year 1980–81.

SEC. 10.5. If any of the funds appropriated to Section A of the State School Fund by Section 2 or 3 of Chapter 288 of the Statutes of 1980 is in excess of the amount required to be apportioned to school districts for the purpose for which such funds are appropriated, then such funds are reappropriated to a subaccount of the Special Account for Capital Outlay for the purpose of providing capital outlay funds to school districts in the 1980–81 fiscal year.

SEC. 11. The Legislative Analyst shall study and report to the Legislature by January 1, 1981, on the allocations and expenditure of

the funds set forth in subdivisions (a), (b), (c), and (d) of Section 6217 of the Public Resources Code. Such report shall include, but not be limited to, a determination of whether the allocations made in those subdivisions result in a subsidy of special segments of the state by the entire state.

SEC. 12. Section 4 of this act shall not become operative if Assembly Bill 1171 of the 1979–80 Regular Session is chaptered.

SEC. 13. Section 9 of this act shall become operative on July 1, 1981.

SEC. 14. The sum of fifteen million dollars ($15,000,000) is hereby appropriated from the Special Account for Capital Outlay to be transferred during fiscal year 1980–81 to the State School Building Aid Fund for the purposes of Chapter 25 (commencing with Section 17785) of Part 10 of the Education Code.

SEC. 15. Section 14 of this act shall not be operative if Assembly Bill No. 2196 of the 1979–80 Regular Session is chaptered.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act may be implemented at the commencement of the 1980–81 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 900

An act to amend Sections 17052.7 and 23602 of the Revenue and Taxation Code, relating to investment tax credits, to take effect immediately, tax levy.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980]

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

SECTION 1. Section 17052.7 of the Revenue and Taxation Code is amended to read:

17052.7. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in paragraph (1) of subdivision (d)) an amount equal to 10 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of water application or distribution equipment, whether new or used, which results in the improvement of agricultural irrigation efficiency through the reduction of water usage from the installation of systems which include, but are not limited to, drip irrigation systems, tail water recovery systems, sprinkler systems, pipelines, and lining of ditches or canals, on agricultural land in California which was cultivated and irrigated during any growing season during the

period commencing January 1, 1971, and ending December 31, 1976, and which is owned and controlled by the taxpayer at the time of installation. The credit shall be taken in the year of installation and shall not exceed five hundred dollars ($500).

(b) The credit for such cost shall be in addition to any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) In the case of a husband and wife filing separate returns, each spouse may claim the credit to a maximum of two hundred fifty dollars ($250), or one spouse may claim the entire credit to a maximum of five hundred dollars ($500). Each spouse claiming the credit pursuant to this subdivision must fulfill the eligibility requirements of subdivision (f).

(d) For the purposes of this section:

(1) The term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for dependent care services expenses provided for in Section 17052.6, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(2) "Agricultural land" means any land used for the production of food or fiber.

(e) The credit allowed by this section shall be allowed only with regard to the installation of water application or distribution equipment on agricultural land used in a trade or business for the production of farm income.

(f) The tax credit provided by this section shall apply only to a taxpayer (1) whose average gross income from farming in the taxable year and the immediately preceding two taxable years is at least 75 percent of the average total gross income from all sources for such years, and (2) whose adjusted gross income in the taxable year is at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

(g) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

SEC. 2. Section 23602 of the Revenue and Taxation Code is amended to read:

23602. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the costs (including installation charges but excluding interest charges) incurred by the taxpayer of water application or distribution equipment, whether new or used, which results in the improvement of agricultural irrigation efficiency through the reduction of water usage from the installation of systems which include, but are not limited to, drip irrigation systems, tail water recovery systems, sprinkler systems, pipelines, and lining of ditches or canals, on agricultural land in California which was cultivated and irrigated during any growing season during the period commencing January

1, 1971, and ending December 31, 1976, and which is owned and controlled by the taxpayer at the time of installation. The credit shall be taken in the year of installation and shall not exceed five hundred dollars ($500).

(b) The credit for such cost shall be in addition to any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) When either (1) the income from sources within this state of two or more corporations which are commonly owned or controlled is determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division, or (2) two or more commonly owned or controlled corporations derive income from sources solely within this state, whose business activities are such that if conducted within and without this state, the income derived from sources within this state would be determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division (hereinafter referred to as "wholly intrastate corporations"), then such corporations shall determine the credit prescribed in subdivision (a) as if such corporations were one corporation. As to wholly intrastate corporations, the amount of the credit prescribed in subdivision (a) shall be prorated among them in the ratio to which the cost of such equipment to each corporation bears to the total cost of such equipment for all corporations.

(d) The credit allowed by this section shall be allowed only with regard to the installation of water application or distribution equipment on agricultural land used in a business for the production of farm income.

(e) The tax credit provided by this section shall apply only to a taxpayer (1) whose average gross income from farming in the income year and immediately preceding two income years is at least 75 percent of the average total gross income from all sources for such years, and (2) whose net income in the income year is at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

(f) For the purpose of this section, the term "agricultural land" means any land used for the production of food or fiber.

(g) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

SEC. 4. On or before September 1, 1984, the Legislative Analyst shall report to the Legislature on the utilization of this credit since its inception, its revenue costs, the distribution of benefits by income class and type and location of farms, the estimated water conservation impact, the savings to the taxpayer from the installation of the water conservation devices, exclusive of the tax credit, and alternatives to the credit.

SEC. 5. This act shall remain in effect only until December 31,

1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1985, deletes or extends such date.

SEC. 6. On or before May 10, 1982, and on or before each May 10 thereafter, the Francise Tax Board shall transmit to the Controller an estimate of the annual revenues which will be lost as a result of enactment of this act.

SEC. 7. The sum estimated by the Franchise Tax Board for the first year in which this act is in effect shall be transferred from the Energy and Resources Fund to the General Fund on or before May 15, 1982, to replace revenues which will be lost as a result of the enactment of this act.

This section shall become operative only if Assembly Bill 2973 of the 1979–80 Regular Session of the Legislature is enacted and creates the Energy and Resources Fund.

SEC. 8. If Section 7 of this act does not become operative, the sums which would otherwise be required to be transferred pursuant to Section 7 shall be transferred from revenues received by the State Lands Commission and allocated under the provisions of Section 6217 of the Public Resources Code; this appropriation to be payable immediately prior to allocations made for the 1981–82 fiscal year pursuant to subdivision (e) (the Capital Outlay Fund for Public Higher Education) of Section 6217 of the Public Resources Code, and after allocations made for the 1981–82 fiscal year pursuant to subdivisions (a) to (d), inclusive, of Section 6217 of the Public Resources Code.

SEC. 9. The revenues lost for the second and subsequent years in which this act is in effect shall be transferred to the General Fund pursuant to the Budget Act on or before May 15, 1983, and on or before each May 15 thereafter, from the funding sources specified in Sections 7 and 8 of this act.

CHAPTER 901

An act to amend Section 5626 of the Public Resources Code, relating to open-space and recreation facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980]

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

SECTION 1. Section 5626 of the Public Resources Code is amended to read:

5626. (a) The property acquired or developed pursuant to this chapter shall be used by the grant recipient only for the purpose for

which the grant moneys were requested and no other use of the area shall be permitted except by the specific act of the Legislature. Any project funded with grant moneys received pursuant to this chapter shall conform to the recreation element of any applicable city or county general plan.

(b) Notwithstanding Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Section 5627, 5628, 5629, or 5630, or any other provisions of law, jurisdictions eligible to receive need basis or block grant moneys pursuant to this chapter shall have one year from the effective date of each act appropriating grant moneys to apply for such grant moneys. Such moneys that are not applied for during the one-year period shall be allocated by the department pursuant to subdivision (b) of Section 5630 during the succeeding fiscal year as grants to cities and recreation and park districts in urbanized areas on a project-by-project basis and on the basis of need.

(c) (1) Grant moneys shall be encumbered by the recipient of such moneys within three years of the date of approval by the director of the application for such moneys. Any part of grant moneys not encumbered within the three-year period shall revert to the General Fund.

(2) Notwithstanding the provisions of paragraph (1) of this subdivision, grant moneys appropriated by Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, and Section 4 of Chapter 1166 of the Statutes of 1979, if the grant application is approved by the director prior to the effective date of the amendment of this section enacted at the 1980 portion of the 1979–80 Regular Session of the Legislature, may be encumbered within three years of the date of grant approval or by December 31, 1981, whichever date is later.

(d) The legal counsel of the grant recipient shall certify to the department that the grant recipient has met, or will meet, all federal, state, and local environmental, public health, relocation, affirmative action, and clearinghouse requirements and all other appropriate codes, laws, and regulations prior to the expenditure of the grant funds.

SEC. 2. (a) The sum of one hundred forty-one thousand dollars ($141,000) is hereby appropriated from the Energy and Resources Fund to the Department of Water Resources for the repair of flood damage to recreation facilities constructed pursuant to Part 4.7 (commencing with Section 12250) of Division 6 of the Water Code, including any necessary redesign or relocation of facilities, if the Energy and Resources Fund is created by an act chaptered before this act, and if not, such repair shall be funded as provided in subdivision (b), subject to reimbursement as provided in subdivision (c).

(b) If the Energy and Resources Fund is not created by an act chaptered before this act, the appropriation of moneys for the repair

specified in subdivision (a) shall be payable instead from revenues, moneys, and remittances received by the State Lands Commission and allocated under the provisions of Section 6217 of the Public Resources Code, except that this transfer shall be allocated immediately prior to allocations made pursuant to subdivision (e) (the Capital Outlay Fund for Public Higher Education) of Section 6217 and after allocations made pursuant to subdivisions (a) to (d), inclusive, of that section.

(c) If the Energy and Resources Fund is created by an act chaptered after this act, then upon the effective date of the act creating the Energy and Resources Fund, an amount equal to the amounts allocated in the interim between the effective date of this act and the effective date of the later act from revenues, moneys, and remittances received by the State Lands Commission, which would have been allocated to the Capital Outlay Fund for Public Higher Education but for this section, shall be transferred from the Energy and Resources Fund to the Controller for allocation pursuant to Section 6217 of the Public Resources Code and in the manner required by law, and the unencumbered balance of the appropriation for the repair specified in subdivision (a) shall be made from the Energy and Resources Fund.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to repair flood damage to recreation facilities constructed by the Department of Water Resources on the Feather River at the earliest possible time and to thereby preserve vital recreation facilities for the benefit of the people of California, and in order to preserve outstanding urban open-space and recreation program grants to local public agencies and prevent the reversion of such grants, it is necessary that this act take effect immediately.

CHAPTER 902

An act to amend Section 25416 of, and to add Section 25412.5 to, the Public Resources Code, relating to energy, and making an appropriation therefor.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) There is a clear and present benefit to the taxpayers in the conversion of street lighting systems to sodium vapor fixtures and

luminaires which use about 40 percent of the electrical energy of older mercury vapor streetlights and about 15 percent of the electrical energy used by incandescent streetlights.

(b) The payback time for costs to refit mercury vapor streetlights to sodium vapor lights is approximately four and one-half to five and one-half years, and from incandescent lights approximately one and one-half to two years.

(c) Privately owned electrical utilities are refitting streetlights owned by them and leased to local governments with sodium vapor lamps, and thus are providing increased energy efficiency.

(d) There is, however, a need to financially assist local governments with the first costs of refitting streetlights owned by them, or leased by them from entities other than privately owned electrical utilities, and for which electricity is purchased from electric utilities. There are 630,000 streetlights so owned and operated in California.

SEC. 2. Section 25412.5 is added to the Public Resources Code, to read:

25412.5. The commission may make loans pursuant to this chapter to local governments owning, or leasing from entities other than privately owned electrical utilities, street lighting systems for purposes of converting the system from incandescent or mercury vapor lamps to sodium vapor lamps or other lighting system equivalent to a sodium vapor system in energy efficiency. Only such refitting programs which convert to sodium vapor lamps or their equivalent in energy efficiency providing comparable illumination shall be eligible for such loan program, it being the purpose and intent of this program to effect the maximum energy savings rather than to increase the amount of light produced by any street lamp. The commission shall provide for loan repayment on the basis of life-cycle cost effectiveness of such conversions in a manner which distinguishes between savings of electricity purchased from a utility and savings realized by local governments which operate electrical systems and thereby furnish electricity for the operation of streetlights.

SEC. 3. Section 25416 of the Public Resources Code is amended to read:

25416. (a) The Controller shall establish, maintain, and administer a separate account within the General Fund to carry out the provisions of this chapter, which account is continuously appropriated for use by the commission without regard to fiscal year. The account shall be named the State Energy Conservation Assistance Account.

(b) The Controller shall deposit in the State Energy Conservation Assistance Account all moneys authorized and appropriated to it by the Legislature and all moneys received by the commission pursuant to Sections 25414 and 25415.

(c) The Controller shall disburse such moneys from the account as the commission may authorize pursuant to this chapter.

SEC. 4. There is hereby appropriated from the Energy and Resources Fund to the State Energy Conservation Assistance Account the sum of eight million dollars ($8,000,000) for expenditure by the State Energy Resources Conservation and Development Commission without regard to fiscal years for purposes of Section 25412.5 of the Public Resources Code.

SEC. 5. Sections 1, 2, and 4 of this act shall become operative only if Assembly Bill No. 2973 of the 1979–80 Regular Session of the Legislature is enacted and creates the Energy and Resources Fund.

CHAPTER 903

An act to amend Sections 17052.5, 17208, 23601, and 24349 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (i)), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges, monthly lease payments, and costs associated with the acquisition of a solar easement as specified in paragraph (7), but excluding interest charges) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in paragraph (6) of subdivision (i).

(A) The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

(B) The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or

owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formulas in this paragraph, so long as the total amount of the credit claimed under the 55 percent formula does not exceed three thousand dollars ($3,000).

(D) With regard to recreational or therapeutic solar energy water heating systems, the amount of the credit allowed by this section shall be 45 percent of the cost of the system for systems installed between January 1, 1981, and December 31, 1981, 35 percent of the cost of the system for systems installed between January 1, 1982, and December 31, 1982, and 25 percent of the cost of the systems installed after January 1, 1983. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost (including installation charges but excluding interest charges and costs associated with the acquisition of an easement) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formulas in paragraph (2) or (3).

(4) If a solar energy system serves two or more dwellings, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy

conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who partially own and partially lease a solar energy system from a municipal utility shall receive a tax credit equal to 55 percent of the purchased portion of the solar energy system (including installation charges, but excluding interest charges) and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the solar tax credit allowance terminates, whichever occurs first. Such credit shall not exceed three thousand dollars ($3,000). In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the solar energy system. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(7) The compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as defined in Section 801.5 of the Civil Code, and the fees for the recording of such an easement shall be considered part of the cost of the solar energy systems, and shall be eligible for the tax credit.

(8) The cost of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and any grant provided by a public utility. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts

or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, until such credit is used. The credit shall be applied first to the earliest years possible.

(f) In the case of taxpayers who qualify for a refund provided for under this subdivision, whose credits exceed their tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17061, 18551.1 and 17053.5, the taxpayers shall be allowed a credit to the extent of the taxpayers' tax liability plus a refund in excess of that amount up to, or a combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed.

(g) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (e).

(i) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061, (relating to excess state disability insurance withheld), Section 18551.1, (relating to income tax withheld), and Section 17053.5, (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title.

(4) "Premises" means the principal stationary location in California where the installed system is to be used and includes land, buildings or portions thereof, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, apartments, individual units of a condominium, cooperatives, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the collection, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structure of a building or is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(j) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208. Also, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.

(k) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(*l*) No refund shall be allowed under this section if the refund amount would be less than ten dollars ($10).

SEC. 2. Section 17208 of the Revenue and Taxation Code is amended to read:

17208. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) For taxable years beginning after December 31, 1958, the term "reasonable allowance" as used in subsection (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight line method;

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1);

(3) The sum of the years-digits method; and

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subsection (a).

(c) Paragraphs (2), (3), and (4) of subsection (b) shall apply only in the case of property (other than intangible property) described in subsection (a) with a useful life of three years or more—

(1) The construction, reconstruction, or erection of which is completed after December 31, 1958, and then only to that portion of the basis which is properly attributable to such construction, reconstruction, or erection after December 31, 1958; or

(2) Acquired after December 31, 1958, if the original use of such property commences with the taxpayer and commences after such date.

(d) There shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 36-month period.

SEC. 3. Section 23601 of the Revenue and Taxation Code is amended to read:

23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges and monthly payments but excluding interest charges) incurred by the taxpayer for any solar energy system

installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in paragraph (5) of subdivision (f).

(A) The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

(B) The solar energy tax credit shall be claimed in the state return for the income year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formulas in this paragraph or paragraph (3) of subdivision (a), so long as the total amount of the credit claimed under the 55 percent formula, does not exceed three thousand dollars ($3,000).

(D) With regard to recreational or therapeutic solar energy water heating systems, the amount of the credit allowed by this section shall be 45 percent of the cost of the system for systems installed between January 1, 1981, and December 31, 1981, 35 percent of the cost of the system for systems installed between January 1, 1982, and December 31, 1982, and 25 percent of the cost of the systems installed after January 1, 1983. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost (including installation charges but excluding interest charges, and costs associated with the acquisition of an easement) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

(4) If a solar energy system serves two or more dwellings, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of dwelling units served by the

system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who partially own and partially lease a solar energy system from a municipal utility shall receive a tax credit equal to 55 percent of the purchased portion of the solar energy system (including installation charges, but excluding interest charges); and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the solar tax credit allowance terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the solar energy system. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(7) The cost of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and grant provided by a public utility. The basis adjustment shall be made for the taxable year for which the credit is allowed.

In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years until such credit is used. The credit shall be applied first to the earliest years possible.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(e) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (c).

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title.

(3) "Premises" means the principal stationary location in California where the installed system is to be used and includes land, buildings or portions thereof, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, apartments, individual units of a condominium, cooperatives, or other similar multiple dwellings.

(5) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(6) "Solar device" means the equipment associated with the collection, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(7) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

(8) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(9) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take a depreciation pursuant to Section 24349. Also, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(i) No refund shall be allowed under this section if the amount of that refund would be less than ten dollars ($10).

(j) Any order of the Public Utilities Commission requiring the implementation of programs to demonstrate or evaluate methods of financing solar water heating devices shall evaluate, among other matters, whether some methods of financing may accelerate utilization of such devices more rapidly than tax credits alone.

SEC. 4. Section 24349 of the Revenue and Taxation Code is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) For income years ending after December 31, 1958, the term "reasonable allowance" as used in subsection (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the

following methods:

(1) The straight line method;

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1);

(3) The sum of the years-digits method; and

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subsection (a).

(c) There shall be allowed as a depreciation deduction a reasonable allowance for the costs of a solar energy system and allowable conservation measures over a 36-month period.

SEC. 5. The provisions of this act shall have no force or effect in the computation of taxes for taxable years and income years which begin after December 31, 1983; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1984.

The provisions of this act shall remain in effect only until January 1, 1984, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 6. The sum of fifteen million dollars ($15,000,000) is hereby transferred from the Energy and Resources Fund to the General Fund to replace revenues which will not be collected as a result of the enactment of this act.

SEC. 7. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the Controller for the purposes of making the refunds provided by this act.

SEC. 8. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 1 and 2 shall be applied in the computation of taxes for taxable years beginning on and after January 1, 1980, and Sections 3 and 4 shall apply to the computation of taxes for income years beginning on and after January 1, 1980.

CHAPTER 904

An act to add and repeal Sections 17052.8, 17208.7, 23601.5, and 24349.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Section 17052.8 is added to the Revenue and Taxation Code, to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (h), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 40 percent of the cost (including installation charges, monthly lease payments but excluding interest charges) incurred by the taxpayer of any energy conservation measure on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed fifteen hundred dollars ($1,500). The owner of the premises on which the energy conservation measure is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measure was installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the energy conservation measure is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost (including

installation charges but excluding interest charges) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the energy conservation measure.

(4) If an energy conservation measure serves two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the energy conservation system by the number of dwelling units served by the energy conservation measure, and applying the formula described in paragraph (2) to the per dwelling cost.

In the case of taxpayers who qualify for a refund provided for under this subdivision, whose credits exceed their tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Section 17061 and 1855.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed.

(5) Taxpayers who partially own and partially lease an energy conservation measure from a utility or other lessor shall receive a tax credit equal to 40 percent of the purchased portion of the energy conservation measure (including installation charges, but excluding interest charges) and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the energy conservation tax credit allowance terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500). In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the energy conservation measure (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the energy conservation measure. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(6) The basis amount of any energy conservation measure eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such energy conservation measure.

(7) The credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance provided by a utility or a public entity (other than interest charges).

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which an energy conservation measure is installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part. The tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for a conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation

measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 18555.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences and individual units of a condominium, cooperative, mobilehome, or apartment.

(6) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exterior to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulating all accessible insulated transverse heating and cooling system ducts and plenums which enter or leave unheated or uncooled areas.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water, reduce heat loss and water evaporation.

(H) Such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended

as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, multiglazed windows and doors, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting;

(vi) Insulation for floors and walls.

(I) For premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Services modifying the openings of heating and cooling systems which achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heating, absorbing or heat reflective glazed windows and door materials, exterior shading devices, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling or glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting.

(vi) Insulation of floors and walls.

Energy conservation measures in the generic categories of subsections (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subsections (G), (H), and (I), shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin

after December 31, 1983, unless a later enacted statute which is chaptered before December 31, 1983, deletes or extends such date.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may, as an alternative to the credit, elect to take depreciation pursuant to Section 17208.7. Also, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or any prior taxable year as a solar energy system.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) Notwithstanding the provisions of subdivision (d), a credit shall be allowed for energy conservation measures specified in subsection (h) (6) (G).

SEC. 3. Section 17208.7 is added to the Revenue and Taxation Code, to read:

17208.7. There shall be allowed as a depreciation deduction, a reasonable allowance for the cost of energy conservation measures over a 36-month period.

SEC. 4. Section 23601.5 is added to the Revenue and Taxation Code, to read:

23601.5. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 40 percent of the cost (including installation charges and monthly payments but excluding interest charges) incurred by the taxpayer of any energy conservation measures on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500). The owner of the premises on which the energy conservation measure is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the energy conservation tax credit for any or all measures installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the measure is installed may claim the credit, provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state

return for the income year in which the energy conservation measure was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the measure is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home. A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation measure installed in that year.

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost (including installation charges but excluding interest charges), exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the energy conservation measure.

(4) If an energy conservation measure serves two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the energy conservation measure by the number of dwelling units served by the measure, and applying the formula described in paragraph (2) to the per dwelling cost.

(5) Taxpayers who partially own and partially lease an energy conservation measure from a utility or other lessor shall receive a tax credit equal to 40 percent of the purchased portion of the measure (including installation charges, but excluding interest charges); and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the energy conservation tax credit allowance terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the energy conservation measure (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the energy conservation measure. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(6) The basis amount of any energy conservation measure eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such energy conservation measure.

(7) The credit provided in this section shall be reduced by the amount of any nonreimbursable financial assistance provided by a utility or a public entity (other than interest charges).

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be

made for the taxable year for which the credit is allowed.

In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement.

The tax credit provided by this section shall not apply to any energy conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit; until such credit is used. The credit shall be applied first to the earliest years possible.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for a conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(e) (1) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (d).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees

with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences and individual units of a condominium, cooperative, mobilehome, or apartment.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in the building exterior to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulating all accessible uninsulated transverse heating and cooling system ducts and plenums which enter or leave unheated or uncooled areas.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water, reduce heat loss and water evaporation.

(H) Such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, multiglazed windows and doors, ventilation cooling, exterior shading devices, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source of heat) which replace electric resistance heaters, or are used in conjunction with a solar

energy system;

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting;

(vi) Insulation for floors and walls.

(I) For premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Services modifying the openings of heating and cooling systems which achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heating, absorbing or heat reflective glazed windows and door materials, exterior shading devices, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling or glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting.

(vi) Insulation of floors and walls.

Energy conservation measures in the generic categories of subsections (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subsections (G), (H), and (I), shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1983, unless a later enacted statute which is chaptered before December 31, 1983, deletes or extends such date.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. Also, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was

installed or any prior taxable year as a solar energy system.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) Notwithstanding the provisions of subdivision (b), a credit shall be allowed for energy conservation measures specified in subsection (f) (5) (G).

SEC. 5. Section 24349.7 is added to the Revenue and Taxation Code, to read:

24349.7. There shall be allowed as a depreciation deduction, a reasonable allowance for the cost of energy conservation measures over a 36-month period.

SEC. 6. For the fiscal year 1981–82, a sum not to exceed forty-two million dollars ($42,000,000) is hereby transferred from the Energy and Resources Fund to the General Fund for the purposes of making the refunds provided for in this act and to replace revenues which will not be collected as a result of the enactment of this act. On July 1, 1982, and every July 1 thereafter through July 1, 1986, the State Treasurer shall transfer an amount as necessary, but not to exceed forty-two million dollars ($42,000,000), from the Special Account for Capital Outlay to the General Fund for the purpose of making the refunds provided for in this act and to replace revenues which will not be collected as a result of the enactment of this act.

SEC. 6.5. In the event Assembly Bill 2973 is not chaptered, or the Energy and Resources Fund and the Special Account for Capital Outlay are not created, and, notwithstanding Section 66100 of the Education Code, if on June 30, 1981, there is an unencumbered balance available for appropriation in the Capital Outlay Fund for Public Higher Education in excess of one hundred fifty million dollars ($150,000,000) the State Treasurer shall on July 1, 1981, and every July 1 thereafter through July 1, 1986, transfer such excess amount up to forty-two million dollars ($42,000,000) to the General Fund for the purposes of refunds provided for in this act and to replace revenues which will not be collected as a result of the enactment of this act.

SEC. 7. The provisions of Sections 1, 3, 4 and 5 of this act, which respectively add Sections 17052.8, 17208.7, 23601.5, and 24349.7 to the Revenue and Taxation Code, shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1986; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987. The provisions of Sections 1, 3, 4, 5, 6 and 6.5 of this act shall remain in effect only until January 1, 1987, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 8. The Franchise Tax Board shall report to the Legislature on or before October 1, 1983, on the effects of this act, including the revenue losses, the claims filed, the types of equipment which were purchased and, in cooperation with the Energy Conservation and

Development Commission, the energy savings.

SEC. 9. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 1 and 3 shall be applied to taxable years beginning on and after January 1, 1981, and Sections 4 and 5 shall be applied to income years beginning on and after January 1, 1981.

CHAPTER 905

An act to add and repeal Section 25603.7 of the Public Resources Code, relating to solar energy, and making an appropriation therefor.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) The agricultural community is one of the largest single consumers of energy in the state.

(b) Much of the energy consumed by the agricultural community could be significantly decreased by the effective utilization of alternative energy sources, especially through the use of solar energy.

(c) Solar energy has been effectively and efficiently used in several agricultural applications, but widespread implementation of solar energy in agriculture has been hampered because of unfamiliarity with the needs of the agricultural industry by the solar industry and because of the lack of innovative solar designs for agricultural applications.

(d) It is the policy of the state to encourage greater use of solar energy in all the state's public and private sectors.

(e) The State Energy Resources Conservation and Development Reserve Account in the General Fund is an appropriate source of funding for a statewide agricultural solar design competition. The objective of the competition is to promote agricultural applications of solar energy, as a renewable, nonpolluting, environmentally benign source of energy whose widespread use can help decrease dependence on limited fossil fuel resources and increase agricultural productivity.

SEC. 2. Section 25603.7 is added to the Public Resources Code, to read:

25603.7. (a) Pursuant to the duties of the commission described in subdivision (a) of Section 25401 and Section 25603, the commission shall conduct a statewide solar design competition to select outstanding designs of agricultural applications of solar energy.

The purpose of the competition, to be known as the "State Agricultural Solar Design Competition," is to demonstrate the technical and economic feasibility of solar energy in agricultural applications, to speed its commercialization, and to promote its use by the agricultural industry. The competition shall be carried out with the assistance of the Department of Food and Agriculture and the Solar Business Office.

(b) The competition shall be conducted statewide in each of the following seven categories:

(1) Solar water heating for agricultural use.

(2) Solar space conditioning, both heating and cooling, for agricultural use.

(3) Solar process heating for agricultural use, including fermentation, distillation, dehydration, cooking, and curing.

(4) Solar production of electricity for agricultural use, including, but not limited to, irrigation and water supply.

(5) Solar production of mechanical energy for agricultural use.

(6) Wind energy for production of electricity or mechanical energy for agricultural use.

(7) Agricultural applications of solar energy which do not fall into any of the above designations.

(c) In order to qualify for the competition, entrants shall be a team composed of a least one member from each of the following categories:

(1) A solar energy system designer, engineer, or technician.

(2) An individual engaged in agriculture as his or her chief form of livelihood.

(d) With the submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the first place prize in any category:

(1) To install or build one or more applications of the winning design.

(2) To commence installation or construction within one year of the announcement of the awards.

(3) To permit the commission to install monitoring equipment for measuring the energy conservation performance of the design.

(4) To permit the commission to document, publicize, and, if feasible, exhibit the installed or constructed design.

All winning designs shall be built or installed on the site or sites described in the submission or on an alternative site or sites with comparable features.

Cash awards to the first place winners in each category shall not be made until the agreed upon installation or construction commences.

(e) The judging panel for the competition shall consist of the following five jurors:

(1) One representative from the office of the Director of Food and Agriculture.

(2) One representative from the agricultural industry, not

involved in the competition.

(3) One representative from the solar industry, not involved in the competition.

(4) One representative from the commission.

(5) One representative from the public.

The nonagency members shall be appointed by the Governor.

The evaluation shall take place in two stages, with an initial technical review by the commission's staff and the Department of Food and Agriculture's staff. The staff shall submit to the judging panel a vigorous technical assessment of the anticipated energy conservation performance of all submissions. Final selection shall be made by the judging panel.

Designs submitted to the competition shall be judged on the extent to which they satisfy the following criteria:

(1) Use of solar equipment and other energy conserving design features.

(2) Amount of energy savings achieved by the design.

(3) Adaptability of the design to widespread use.

(4) Benefit to the agricultural industry.

(f) The commission shall be responsible for developing rules and procedures for the conduct of the competition and for the judging, which rules shall ensure anonymity of designs submitted prior to final awarding of prizes, shall ensure impartiality of the judging panel, and shall ensure uniform treatment of competitors.

In administering the competition, the commission, in conjunction with the Department of Food and Agriculture, shall accomplish all of the following tasks:

(1) Preparation of a competition program.

(2) Distribution of competition information and ongoing publicity.

(3) Development of rules and procedures for competitors and judges.

(4) Preparation of a summary document for the competition, including a portfolio of winning designs and followup publicity.

(5) Instrumentation of winning designs installed or constructed in accordance with requirements of this section; instrumentation for measurement of energy conservation performance of the designs and ongoing data collection shall be provided by the commission pursuant to Section 25607.

For purposes of administering the competition, the commission shall contract with the Department of Food and Agriculture for materials and services that cannot be performed by its staff.

(g) The authors of the winning designs in each of the seven categories shall receive five thousand dollars ($5,000) in cash awards. The author of the most outstanding design, selected from among the seven first place winners, shall receive an additional five thousand dollars ($5,000) cash award. The second place designs in each of the seven categories shall receive two thousand dollars ($2,000) in cash awards.

This section shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

SEC. 3. There is hereby appropriated from the Energy and Resources Fund the sum of ninety-nine thousand dollars ($99,000) to the State Energy Resources Conservation and Development Commission for purposes of carrying out the provisions of Section 25603.7 of the Public Resources Code. Of this amount, at least fifty-four thousand dollars ($54,000) shall be allocated for cash awards to winning competitors pursuant to subdivision (g) of Section 25603.7 of the Public Resources Code, and the remainder shall be used for administration of the program established under that section.

CHAPTER 906

An act to add Sections 17052.8 and 23607 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980]

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

SECTION 1. Section 17052.8 is added to the Revenue and Taxation Code, to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of net tax imposed by this part an amount equal to 50 percent of the cost incurred by the taxpayer during the taxable year for the acquisition and installation of solar pumping systems used in agricultural irrigation on premises in California.

(2) A husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them.

(3) The basis of any solar pumping system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(4) The credit provided by this section for the cost incurred by the taxpayer for the acquisition and installation of solar pumping systems shall be in lieu of any credit under Section 17052.5 to which the taxpayer otherwise may be entitled, if any.

(b) The amount of credits allowed by this section shall not exceed seventy-five thousand dollars ($75,000) for each solar pumping system.

(c) If in the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax"

in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible.

(d) For purposes of this section:

(1) "Installation" means placing in position in a functionally operative state.

(2) "Net tax" means the tax imposed under Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to state disability insurance withheld), Section 18551.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Solar pumping system" includes, but is not limited to, active thermal systems, photovoltaic systems, and any other system which converts solar energy into electrical or mechanical energy for purposes of driving an irrigation pump. "Solar pumping system" also includes the ancillary components necessary for the installation and operation of the system.

(e) The Franchise Tax Board, in determining the eligibility of a solar pumping system for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

SEC. 2. Section 23607 is added to the Revenue and Taxation Code, to read:

23607. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and tax on preference income), an amount equal to 50 percent of the cost incurred by the taxpayer during the income year for the acquisition and installation of solar pumping systems used in agricultural irrigation on premises in California.

(2) The basis of any solar pumping system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(3) The credit provided by this section for the cost incurred by the taxpayer for the acquisition and installation of solar pumping systems shall be in lieu of any credit under Section 23601 to which the taxpayer otherwise may be entitled if any.

(b) The amount of credit allowed by this section shall not exceed $75,000 for each solar pumping system.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible.

(d) For purposes of this section:

(1) "Installation" means placing in position in a functionally operative state.

(2) "Solar pumping system" includes, but is not limited to, active thermal systems, photovoltaic systems, and any other system which converts solar energy into electrical or mechanical energy for purposes of driving an irrigation pump. Solar pumping system also includes the ancillary components necessary for the installation and operation of the system.

(e) The Franchise Tax Board, in determining the eligibility of a solar pumping system for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

SEC. 3. The Legislative Analyst shall report to the Legislature by March 30, 1984, as to the effect of this act in encouraging the installation of solar pumps, the economic and fiscal consequences, the energy savings attributable to this act, and the cost of such energy had it been produced by alternative sources.

SEC. 4. On or before May 10, 1982, and on or before each May 10 thereafter, the Franchise Tax Board shall transmit to the Controller an estimate of the annual revenues which will be lost as a result of enactment of this act.

SEC. 5. The sum estimated by the Franchise Tax Board for the first year in which this act is in effect shall be transferred from the Energy and Resources Fund to the General Fund on or before May 15, 1982, to replace revenues which will be lost as a result of the enactment of this act.

This section shall become operative only if Assembly Bill No. 2973 of the 1979-80 Regular Session of the Legislature is enacted and creates the Energy and Resources Fund.

SEC. 6. If Section 5 of this act does not become operative, the sums which would otherwise be required to be transferred pursuant to Section 5 shall be transferred from revenues received by the State Lands Commission and allocated under the provisions of Section 6217 of the Public Resources Code; this appropriation to be payable immediately prior to allocations made for the 1981–82 fiscal year pursuant to subdivision (e) (the Capital Outlay Fund for Public Higher Education) of Section 6217, and after allocations made for the 1981–82 fiscal year pursuant to subdivisions (a) to (d), inclusive, of Section 6217 of the Public Resources Code.

SEC. 7. The revenues lost for the second and subsequent years in which this act is in effect shall be transferred to the General Fund pursuant to the Budget Act on or before May 15, 1983, and on or before each May 15 thereafter.

SEC. 8. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 1 and 2 of this act shall be applied in the computation of taxes for taxable and income years beginning on and after January 1, 1981 except that subdivisions (a) and (b) of Section

17052.8 and subdivisions (a) and (b) of Section 23607 shall have no force or effect in the computation of taxes for taxable and income years which begin after December 31, 1983.

CHAPTER 907

An act relating to biomass farming, and making an appropriation therefor.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980]

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

SECTION 1. The Legislature hereby finds and declares that the development of alternative sources of energy is of great importance to the citizens of this state, and that such alternative sources should be investigated and, when feasible, their use should be instituted as soon as possible. The Legislature, therefore, declares that it is the policy of the state to encourage the development of prototype biomass farms capable of demonstrating the production of biomass on lands with economically marginal agricultural production or on forest lands. It is further the policy of the state to give priority to the distribution of biomass source energy within the local region of production.

SEC. 2. Biomass farming is the production of plants for conversion into energy. "Plant" includes any part of a plant, tree, plant product, shrub, vine, fruit, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft, or fruit pit.

SEC. 3. The Department of Food and Agriculture, in cooperation with the Department of Forestry after consultation with the State Energy Resources Conservation and Development Commission and the University of California, shall implement a program which establishes four to six biomass farming demonstration projects on farms located in the state on lands with economically marginal agricultural production or on forest lands. The Department of Food and Agriculture shall submit interim progress reports to the Legislature on or before January 1, 1982, and January 1, 1984, and shall submit a final report of the program's results on or before January 1, 1986. The final report shall include the following information:

(1) The progress of the establishment of biomass farming demonstration projects in the state.

(2) The identification of lands suitable for biomass farming which will not compete with the efficient use of land for food production.

(3) The identification of those plants most suitable for high net energy yields and those plants with high economic potential.

(4) The water, chemical, and fertilizer requirements for biomass

farming of such plants.

(5) The identification of problem areas which need to be resolved to facilitate implementation of biomass farming as a private farming practice.

(6) The identification of any nonenergy byproducts, such as animal feed or agricultural products, that can be produced from biomass crops.

(7) Various alternatives to best meet the state policy of encouraging development of biomass farming on lands in the state with economically marginal argricultural production.

(8) The impact analysis of biomass farming on the economic developments, including agriculture, forestry, industry, and job opportunities, in the state.

SEC. 4. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Energy and Resources Fund to the Department of Food and Agriculture for the purpose of carrying out the requirements of this act.

SEC. 5. It is the intent of the Legislature, that Section 4 of this act shall not become operative unless the Energy and Resources Fund is created by legislation enacted during the 1979–80 Regular Session.

CHAPTER 908

An act to add Division 16 (commencing with Section 26000) to the Public Resources Code, and to add Section 6010.8 to the Revenue and Taxation Code, relating to energy, and making an appropriation therefor.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Division 16 (commencing with Section 26000) is added to the Public Resources Code, to read:

DIVISION 16. CALIFORNIA ALTERNATIVE ENERGY SOURCE FINANCING AUTHORITY ACT

CHAPTER 1. CALIFORNIA ALTERNATIVE ENERGY SOURCE FINANCING AUTHORITY

Article 1. General Provisions and Definitions

26000. This division may be cited as the California Alternative Energy Source Financing Authority Act.

26001. The Legislature hereby finds that it is necessary and essential that the state, in cooperation with the federal government,

use all practical and commercially feasible means to promote the prompt and efficient development of energy sources which are renewable or which more efficiently utilize and conserve scarce energy resources. Furthermore, the Legislature finds that the promotion of energy sources which reduce the degradation of the environment and which protect the health, welfare, and safety of the people of this state is in the public interest and serves a public purpose.

26002. It is the purpose of this division to carry out and make effective the findings of the Legislature pursuant to Sections 25004, 25004.2, and 25007, and to that end to provide industry within the state with an alternative method of financing in providing and promoting the establishment of facilities utilizing alternative methods and sources which are needed to meet the energy needs of the state and guarantee the health and welfare of the citizens of the State of California.

26002.5. This division is necessary for the welfare of the state and its inhabitants, and shall be liberally construed to effect its purposes.

26003. As used in this division, unless the context otherwise requires:

(a) "Authority" means the California Alternative Energy Source Financing Authority established pursuant to Section 26004 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given.

(b) "Cost" as applied to a project or portion thereof financed under the provisions of this division means all or any part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest therein, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of such construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of any project.

(c) "Participating party" means any person, company, corporation, partnership, firm, or other entity or group of entities engaged in operations within this state which requires financing pursuant to the terms of this division to aid and assist in the promotion of alternative energy sources in the state.

(d) "Alternative sources" means the application of cogeneration

technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 25 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(e) "Project" means any land, building, improvement thereto, rehabilitation, work, property, or structure, real or personal, including, but not limited to, machinery and equipment, whether or not in existence or under construction, utilizing or designed to utilize an alternative source.

(f) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from the sale, lease, or other disposition of alternative source facilities, or the making of loans to finance alternative source facilities, and any income or revenue derived from the investment of any money in any fund or account of the authority.

(g) "Public agency" means any federal or state agency, board, or commission, or any county, city and county, city, regional agency, public district, or other political subdivision.

Article 2. Organization of Authority and General Powers and Duties Thereof

26004. There is in the state government the California Alternative Energy Source Financing Authority. The authority constitutes a public instrumentality and the exercise by the authority of powers conferred by this division shall be deemed and held to be the performance of an essential public function.

The authority shall consist of five members: the Director of Finance, the Chairman of the State Energy Resources Conservation and Development Commission, the Chairman of the Public Utilities Commission, the State Controller, and the State Treasurer who shall serve as the chairman of the authority.

The Director of Finance, the Chairman of the State Energy Resources Conservation and Development Commission, and the Chairman of the Public Utilities Commission may each designate a deputy or clerk in his agency to act for him and represent him at all meetings of the authority.

The first meeting of the authority shall be convened by the State Treasurer.

26005. All members of the authority shall serve thereon without compensation as members of the authority.

26006. The provisions of this division shall be administered by the authority which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it under this division.

26007. The authority shall maintain an office in the City of Sacramento.

26008. The authority may employ an executive secretary and such other persons as are necessary to enable it properly to perform

the duties imposed upon it by this division. The executive secretary shall serve at the pleasure of the authority and shall receive such compensation as shall be fixed by the authority.

26009. The authority shall, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out the provisions of this division. The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively promote the development and utilization of alternative energy sources.

26010. (a) The Attorney General shall be the legal counsel for the authority, but with the approval of the Attorney General, the authority may employ such legal counsel as in its judgment is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this division, including the employment of such bond counsel as may be deemed advisable in connection with the issuance and sale of bonds.

(b) The Director of Finance shall be the treasurer of the authority.

26011. The authority is authorized and empowered:

(a) To adopt an official seal.

(b) To sue and be sued in its own name.

(c) To issue bonds, notes, bond anticipation notes, and other obligations of the authority, including, at the option of the authority, obligations bearing interest that is taxable for purposes of federal income taxation, for any of its purposes and to fund or refund the same, all as provided in this division.

(d) To determine the location and character of any project to be financed under the provisions of this division, to lend financial assistance to any participating party, to enter into loan agreements with any participating party for the financing of any project including creating a lien or security interest in the property, to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate the same, and to enter into contracts for the sale of any project, including installment sales or sales under conditional sales contracts.

(e) To fix fees and charges for projects, and interest rates with respect to loans for projects, and to revise from time to time such fees and charges and interest rates, and to collect rates, rents, fees, and charges for the use of, and for any facilities or services furnished, or to be furnished, by a project or any part thereof and to contract with any person, partnership, association, corporation, or public agency with respect thereto, and to fix the terms and conditions upon which any project may be sold or disposed of, whether upon installment sales contracts or otherwise.

(f) To employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary in its judgment in connection with the issuance and sale of any bonds, notes, bond

anticipation notes, or other obligations of the authority; to contract for engineering, architectural, accounting, or other services of appropriate state agencies as may be necessary in the judgment of the authority for the successful development of any project; and to pay the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any participating party if, in the judgment of the authority, such services are necessary to the successful development of any project, and provided such services are not obtainable from any state agency.

(g) To do all things generally necessary or convenient to carry out the purposes of this division.

26011.5. The authority shall establish criteria for the selection of projects to receive financing assistance from the authority. In the selection of projects, the authority shall, in accordance with the legislative intent, provide financial assistance under this division in a manner consistent with sound financial practice. In developing project selection criteria, the authority shall consider, but not be limited to, all of the following:

(a) The technological feasibility of the projects.

(b) The economic soundness of the projects and a realistic expectation that all financial obligations can and will be met by the participating parties.

(c) The contribution that the projects can make to a reduction or more efficient use of fossil fuels.

(d) Any other such factors that the authority finds significant in achieving the purposes and objectives of this division.

26012. All expenses incurred in carrying out the provisions of this division shall be payable solely from funds provided under the authority of this division and no liability or obligation shall be imposed upon the State of California and, except as provided in Section 26027, none shall be incurred by the authority beyond the extent to which moneys shall have been provided under the provisions of this division. Under no circumstances shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under the provisions of this division.

26013. (a) All projects shall be constructed or completed subject to the rules and regulations of the authority.

(b) The authority is authorized to acquire, by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands located within this state necessary or convenient for the construction or operation of a project, upon such terms and conditions as it deems advisable, and to lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objects and purposes of this division. The authority may not exercise the power of eminent domain under this division or any other provision of law.

26014. When the principal of and interest on bonds of the

authority issued to finance the cost of a particular project for a participating party, including any refunding bonds issued to refund and refinance such bonds, shall have been fully paid and retired or when adequate provision shall have been made for the payment and retirement of the same, and all other conditions of the resolution, indenture, or agreement authorizing and securing the same shall have been satisfied and the lien of such resolution, indenture, or agreement shall have been released in accordance with the provisions thereof, the authority is authorized, upon such terms and conditions as may be prescribed by the authority, to execute such deeds and conveyances as are necessary or required to convey title to such project to such participating party.

26015. (a) The authority, or the executive secretary of the authority, if authorized to do so by resolution of the authority, shall take official action towards the issuance of bonds with respect to any participating party at the next meeting of the authority occurring more than 30 days following receipt of such application or if by the executive secretary within 45 days of such receipt. The executive secretary may be authorized to take such action in a resolution of general authority. Official action towards the issuance of bonds may reserve the right of the authority to further review an application for financing and to consider the terms thereof prior to the issuance of bonds therefor.

(b) The authority shall take final action to approve or disapprove of the issuance of bonds or notes to lend financial assistance to participating parties within 60 days of the receipt by the authority of a request from such participating party for such action. Any such request by a participating party for such final action shall be accompanied by evidence of fulfillment of any and all conditions to the issuance of such bonds or notes imposed at the time the first action towards the issuance thereof was taken by the authority and by copies of forms of all principal legal documents to be approved by the authority.

(c) The authority may give final approval for the issuance of such bonds or notes upon such terms as it reasonably deems necessary or desirable.

(d) Any action under this section shall be at the sole discretion of the authority.

26016. The authority shall provide maximum opportunity for use of its financing by individuals and small businesses or corporations by providing information, assistance, and coordination to facilitate financing for small projects. Small projects under one million dollars ($1,000,000) cost or one megawatt size or both such cost and size may be grouped together and qualify as one bond sale. In the event that a small business entity applying for funding under this section is not approved by the authority, the authority shall assist the small business entity to locate a favorable funding source through a corporation qualified under the Business and Industrial Development Corporations Law (commencing with Section 31000 of

the Financial Code), or through any federal, state, or private funding source.

26016.5. (a) The Legislature finds and declares that small businesses have had difficulty establishing adequate security for bonds issued by the authority in their behalf, and that establishing common reserve funds will help to provide reasonable security for such bonds and will help to make the authority's services available to various small businesses which are presently unable to use them.

(b) For the purpose of establishing and maintaining such common reserve funds as it deems necessary or desirable to secure its bonds or any issuance thereof, the authority, pursuant to its contracts with participating parties, may levy fees or other charges on, or require deposits from, participating parties receiving financing for projects under this division. Prior to levying any such fees or charges or requiring such deposits, the authority shall adopt regulations for the operation of the common reserve funds and governing the amounts and any payment schedule for such fees, charges, or deposits.

(c) Subject to any prior contractual obligations to any of its bondholders, the authority may establish one or more common reserve funds for any or all of its bonds. The liability of any such common reserve fund, with respect to any single issue of bonds of the authority, may not exceed 25 percent of the sum of the bonds of such issue.

(d) Each common reserve fund established pursuant to this section shall be deposited in a special account which shall be established by the Controller. Notwithstanding any other provision of law, all interest or other increment earned by investment or deposit of moneys in such an account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be credited to, and deposited in, the account.

26017. The authority, no later than March 1 of each year, shall submit to the Legislature a report of its activities for the preceding calendar year ended December 31. Such report shall include (1) a listing of the applications received, (2) a listing of the applications accepted for financing, (3) a specification of bonds sold, interest rates thereon, and whether bond sales were pursuant to public bid or were negotiated, (4) a specification of the amount of bonds authorized but currently unsold, (5) a projection of the authority's needs and requirements for the coming year, and (6) a report of revenues and expenditures for the preceding fiscal year.

Article 3. Bonds and Notes

26020. The authority is authorized to incur indebtedness and to issue securities of any kind or class, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues of the authority and the proceeds of its bonds, as hereinafter defined, shall not exceed the sum of two hundred

million dollars ($200,000,000) of new debt, except as provided in this article. "New debt" shall not include indebtedness incurred to refund existing debts except to the extent that such indebtedness exceeds the amount of such debts.

26021. The Legislature may, by statute, authorize the authority to issue bonds, as defined in Section 26022, in excess of the amount provided in Section 26020.

26022. (a) The authority is authorized from time to time to issue its negotiable bonds, notes, debentures, or other securities (hereinafter collectively called "bonds") for any of its purposes. Such bonds may be authorized, without limiting the generality of the foregoing, to finance a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties. In anticipation of the sale of such bonds as authorized by Section 26020, or as may be authorized pursuant to Section 26021, the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such bond anticipation notes may be paid from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. Notes and agreements relating thereto and bond anticipation notes, hereinafter collectively called notes, and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond, agreement relating thereto, and bond resolution of the authority may contain; except that such note or renewal thereof shall mature at such time not exceeding two years from the date of issue of the original note.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes, or other obligations shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with any participating party. Notwithstanding that such bonds, notes, or other obligations may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds, notes, or other obligations for registration.

(c) Subject to the limitations in Sections 26020 and 26021, the bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to

such terms of redemption, as such resolution or resolutions may provide. The bonds or notes shall be sold by the State Treasurer within 60 days of receipt of a certified copy of the authority's resolution authorizing the sale of the bonds; provided, that the authority, at its discretion, may adopt a resolution extending such 60-day period. Such sales may be a public or private sale, and for such price or prices and on such terms and conditions, as the authority shall determine after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of such bonds or notes. Pending preparation of the definitive bonds, the State Treasurer may issue interim receipts, certificates, or temporary bonds which shall be exchanged for such definitive bonds. The State Treasurer may sell any bonds, notes, or other evidence of indebtedness at a price below the par value thereof; provided, however, that the discount on any security so sold shall not exceed 6 percent of the par value thereof.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(1) Pledging the full faith and credit of the authority or pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist.

(2) The rentals, fees, purchase payments, loan repayments, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(3) The setting aside of reserves or sinking funds, and the regulation and disposition thereof.

(4) Limitations on the right of the authority or its agent to restrict and regulate the use of the project or projects to be financed out of the proceeds of the bonds or any particular issue of bonds.

(5) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds.

(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds.

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(8) Limitations on expeditures for operating, administrative, or other expenses of the authority.

(9) Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and

providing the rights and remedies of such holders in the event of a default.

(10) The mortgaging of any project and the site thereof for the purpose of securing the bondholders.

(11) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(12) Procedures for the selection of projects to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold in advance of the designation of the projects and participating parties to receive such financing.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with bondholders.

26023. In the discretion of the authority, any bonds issued under the provisions of this division may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be the State Treasurer or any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of such bonds. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this division. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

26024. Bonds issued under the provisions of this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the faith and credit of the state or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided therefor. All such bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this bond."

The issuance of bonds under the provisions of this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing contained in this section shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

26025. (a) The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds, notes, or other securities of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds, notes, or other securities may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(c) Pending such use, any such escrowed proceeds may be invested and reinvested by the State Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or

realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested by the State Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

(e) All such bonds shall be subject to the provisions of this division in the same manner and to the same extent as other bonds issued pursuant to this division.

26026. Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, savings and loan associations, and investment companies, for executors, administrators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and such bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state, is now, or may hereafter be, authorized by law, including deposits to secure public funds if, and only to the extent that, evidence of indebtedness or debt securities of the participating party receiving financing through the issuance of such bonds qualify or are eligible for such purposes and uses.

26027. No liability shall be incurred by the authority beyond the extent to which moneys have been provided under this division; except that for the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives revenues or proceeds from bonds or notes as provided under this division, the authority may borrow money as needed for such expenses from the State Energy Resources Conservation and Development Special Account in the General Fund in the State Treasury. Such borrowed moneys shall be repaid with interest within a reasonable time after the authority receives revenues or proceeds from bonds or notes as provided under this division.

Article 3.5. Supplemental Bond Provisions

26029. The authority shall not be required to pay any property taxes or assessments upon, or in respect to, a project or any property acquired by or for the authority under the provisions of this division

or upon the income therefrom, so long as the authority holds title to such project or the property or facilities comprised in the project. The exemption of the authority from taxation of any project herein provided shall cease forthwith when title to such property is transferred from the authority to any participating party. The provisions of this section shall not exempt any participating party from taxation including, but not limited to, taxation upon a possessory interest, with respect to any project, or the property or facilities comprised in any project, which may otherwise be applicable to such participating party.

26029.4. Subject to Section 26029.6, the existence of the authority may be terminated at any time by the Legislature. Upon dissolution of the authority, the title to all properties owned by it shall, subject to the interests of any participating parties therein, vest in and become the property of the State of California and shall not inure to the benefit of any private party.

26029.5. This division shall be deemed to provide a complete, additional, and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, except that the issuance of bonds and refunding bonds under the provisions of this division need not comply with the requirements of any other law applicable to the issuance of bonds, and provided that, in the construction and acquisition of a project pursuant hereto, the authority need not comply with the requirements of any other law applicable to the construction or acquisition of public works except as specifically provided in this division.

26029.6. The State of California does hereby pledge to and agree with the holders of any obligations issued under this division, and with those parties who may enter into contracts with the authority pursuant to the provisions of this division, that the state will not limit or alter the rights hereby vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority; provided, however, nothing herein contained shall preclude such limitation or alteration if and when adequate provision shall be made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority. The authority as agent for the state is authorized to include this pledge and undertaking for the state in such obligations or contracts.

26029.8. The powers granted to the authority by this division may be exercised without regard or reference to any department or agency of the state. All other general or special laws, or parts thereof, inconsistent with this division are hereby declared to be inapplicable to the provisions of this division. Nothing contained in this division shall be interpreted to exempt the construction or acquisition of any project by any participating party from compliance with all applicable local, state, or federal laws and regulations.

Article 4. Construction and Leases of Facilities

26030. The authority may contract with any participating party for the construction of a project by such participating party. All such contracts for the construction of a project by a participating party shall provide that the participating party shall be responsible for the architectural and engineering design and for the construction and completion thereof, subject to such standards for architectural and engineering design as may be established, and subject to such supervision as the authority deems necessary. The authority may agree to pay the cost of such project constructed by any participating party and to advance such costs from time to time in installments or otherwise as required by the contract for the construction thereof. Title to all such projects shall be vested in the authority subject to the terms of any lease thereof to the participating party or the rights of a participating party under any contract for the purchase of such project including the payment of the purchase price under installment sales contracts.

26031. The authority may, as lessor or lessee, enter into leases and agreements with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, machinery, furnishings, equipment, and alternative sources facilities of any kind or character. The terms and conditions of such leases may be as mutually agreed upon. Any such lease may provide the means or methods by which title shall vest in a participating party upon the termination of the lease and shall contain such other terms and conditions as the authority may determine. The authority is authorized to fix, revise, charge, and collect rates, rents, fees and charges for each project. Such rates, rents, fees, and charges shall be fixed and adjusted with respect to the aggregate of rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to do all of the following:

(a) Pay the principal of and the interest on outstanding bonds, notes, or other evidences of indebtedness of the authority issued with respect to such project as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds, notes, or other evidences of indebtedness. A sufficient amount of the revenues derived from a project may be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and interest on such bonds, notes, or other evidences of indebtedness as the same shall become due, and the redemption price or the purchase price of bonds, notes, or other evidences of indebtedness retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time the pledge is made; the rates, rents, fees, and charges and other revenues or other moneys so pledged and thereafter

received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement nor any other agreement nor any lease by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all bonds, notes, or other evidences of indebtedness of the authority issued to finance projects of a particular participating party without distinction or priority of one over another; provided, that the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project or projects and for the bonds issued to finance a particular project or projects and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds, notes, or other evidences of indebtedness of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds, notes, or other evidences of indebtedness.

(c) Pay operating and administrative costs of the authority.

26032. The authority may enter into contracts of sale with any participating party convering any project financed by the authority. The purchase price pursuant to such contract of sale shall be treated in substantially the same manner and shall be at least sufficient to provide funds for all the purposes provided in Section 26031 and may be paid in installments, together with interest on the unpaid balance, or otherwise, as may be mutually agreed and set forth in such contract of sale. All payments received by the authority under any installment sales or conditional sales contract shall be applied by the authority substantially in the same manner as hereinabove provided in Section 26031 in the case of lease payments or rental charges received by the authority.

26032.5. As an alternative to leasing or selling a project to a participating party, the authority may finance the acquisition, construction, or installation of a project by means of a loan to the participating party. The principal amount of the participating party's obligation as borrower shall be sufficient to provide funds for all the purposes specified in subdivisions (a), (b), and (c) of Section 26031 and may be paid in installments, together with interest on the unpaid balance, or otherwise as may be mutually agreed by the authority and the participating party and set forth in the loan agreement. Loans made pursuant to this section may be secured or unsecured in the discretion of the authority.

The provisions of Section 26030 shall not be applicable to projects constructed with moneys loaned pursuant to this section.

26033. All moneys received pursuant to the provisions of this division, whether as proceeds from the sale of bonds, notes, or other evidences of indebtedness or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this division. Any bank or trust company with which such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as the resolution authorizing the bonds of any issue or the trust agreements securing such bonds may provide.

26034. Any holder of bonds, notes, or other obligations issued under the provisions of this division or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, notes, or other obligations, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreements, and may enforce and compel the performance of all duties required by this division or by such resolution or trust agreement to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

26035. The exercise of the powers granted by this division shall be in all respects for the benefit of the people of this state, for their health and welfare, and protection of the state's environment. Any bonds, notes, or other obligations issued under the provisions of this division, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by municipalities and other political subdivisions of the state. However, the preceding sentence shall not apply with respect to any bonds, notes, or other obligations, or the income therefrom, for any period during which such bonds, notes, or other obligations are held by (a) any participating party, (b) persons, organizations, trades, or businesses (whether or not incorporated, organized in this state, or affiliated with such participating party) owned or controlled, directly or indirectly, by such participating party, or (c) persons, organizations, trades or businesses (whether or not incorporated, organized in this state, or affiliated with such participating party) which own or control, directly or indirectly, such participating party.

26036. If the jurisdiction of the authority to order a proposed act is not affected, an omission of any officer or the authority in the proceedings under this division or any other defect in the proceedings shall not invalidate the proceedings for issuance of bonds pursuant to this division.

26037. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of bonds under this division and the legality and validity of all proceedings previously taken or proposed in a resolution of the authority to be taken for the authorization, issuance, sale and delivery of the bonds and for the payment of the principal thereof and interest thereon.

CHAPTER 2. ADDITIONAL POWERS AND DUTIES

26040. The authority may receive and utilize grants or loans from the federal government, a public agency, or any other source for carrying out the purposes of this division.

CHAPTER 3. GENERAL FUND REVENUE LOSS

26042. It is the intent of the Legislature that any loss of revenue to the General Fund occasioned by the purchase of bonds issued by the authority shall be restored to the General Fund from revenues, moneys, and remittances received by the State Lands Commission and allocated pursuant to Section 6217.

26042.2. On May 10, 1982, and on each May 10 thereafter, the authority shall make a determination of an amount equal to one-half of 1 percent of the total of all outstanding bonds issued pursuant to the provisions of Article 3 (commencing with Section 26020) of Chapter 1 as of May 1 of such year. The amount determined shall be deemed the General Fund revenue loss for the year. The authority shall inform the Controller of the determination made under this section.

26042.4. On May 15, 1982, and on each May 15 thereafter, the Controller shall transfer to the General Fund the amount determined by the authority pursuant to Section 26042.2 from the Energy and Resources Fund.

This section shall become operative only if Assembly Bill No. 2973 of the 1979–80 Regular Session is chaptered and creates the Energy and Resources Fund.

26042.4. On May 15, 1982, and on each May 15 thereafter, the Controller shall transfer to the General Fund the amount determined by the authority pursuant to Section 26042.2 from revenues, moneys, and remittances received by the State Lands Commission and allocated under the provisions of Section 6217. Such amount shall be allocated from such revenues, moneys, and remittances immediately prior to allocations made pursuant to subdivision (e) (the Capitol Outlay Fund for Public Higher Education) of Section 6217, and after allocations made pursuant to subdivisions (a) to (d), inclusive, of Section 6217.

This section shall not become operative if Assembly Bill No. 2973 of the 1979–80 Regular Session is chaptered and creates the Energy

and Resources Fund.

SEC. 2. Section 6010.8 is added to the Revenue and Taxation Code, to read:

6010.8. "Sale" and "purchase," do not include any transfer of title of tangible personal property constituting any project to the California Alternative Energy Source Financing Authority by any participating party, nor any lease or transfer of title of tangible personal property constituting any project by the authority to any participating party, when the transfer or lease is made pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code. The terms "project" and "participating party" as used in this section have the same meanings as in Section 26003 of the Public Resources Code.

SEC. 3. There is hereby appropriated from the State Energy Resources Conservation and Development Special Account in the General Fund the sum of two hundred thousand dollars ($200,000) to the California Alternative Energy Source Financing Authority for purposes of carrying out the provisions of Section 26027 of the Public Resources Code.

CHAPTER 909

An act making an appropriation for the support of the California Conservation Corps, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980.]

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

SECTION 1. The sum of two million two hundred fifty thousand dollars ($2,250,000) is hereby appropriated from the Energy and Resources Fund for the support of the California Conservation Corps during the 1980–81 fiscal year; provided, however, that the moneys shall be expended only to the extent that, and in such amount as, federal funds for the California Conservation Corps in the 1980–81 fiscal year under Public Law 95–93 are less than six million nine hundred thirty-two thousand dollars ($6,932,000), as determined by the Director of Finance.

SEC. 2. In the event that the Energy and Resources Fund is not in existence on the effective date of this act or there is insufficient moneys in that fund to fund the project in Section 1 of this act, the amount necessary to make up such deficiency is hereby appropriated from the revenues, moneys, and remittances received and deposited in the State Treasury by the State Lands Commission pursuant to Section 6217 of the Public Resources Code for expenditure as specified in Section 1 of this act, except that this appropriation shall

be allocated immediately prior to the allocations made pursuant to subdivision (e) (the Capital Outlay Fund for Public Higher Education) of Section 6217 of the Public Resources Code, and after allocations made pursuant to subdivisions (a) to (d), inclusive, of that section.

SEC. 3. It is the intent of the Legislature that the California Conservation Corps provide the same level of services in the 1980–81 fiscal year as that provided by the Budget Act of 1980.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the funds appropriated by this act to be made available on the commencement of the 1980–81 fiscal year, this act must take effect immediately.

CHAPTER 910

An act to repeal, add, and repeal Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 81800) is added to Part 49 of the Education Code, to read:

CHAPTER 4. COMMUNITY COLLEGE CONSTRUCTION ACT OF 1980

Article 1. Definitions and General Provisions

81800. (a) This chapter shall be known and may be cited as the Community College Construction Act of 1980.

(b) The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state, and the education of community college students is a joint obligation and function of both the state and community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be

required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

81801. As used in this chapter, "community college" means grades 13 and 14 of a community college; and "community college district" means any community college district.

81802. (a) As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, and basic food service facilities; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities; and the initial acquisition of equipment.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The chancellor's office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Legislature as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

81803. As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

81804. As used in this chapter, "chancellor" means the Chancellor of the California Community Colleges.

81805. This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.

81806. Any action of the chancellor in administering this chapter may be appealed to the board of governors by the governing board of an affected community college district. The appeal shall be placed on the agenda of the board in accordance with the general agenda practices of the board. The decision of the board on such appeals shall be final.

81807. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.

81808. In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the project and the sources of the funds expended.

81810. As used in this chapter, "educational center" means an off campus location established and administered by an existing college or district which:

(a) Is scheduled to operate for three or more years;

(b) Is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operations;

(c) Has onsite administrative personnel; and

(d) Offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

Article 2. Plans for Capital Construction

81820. On or before February 1, 1981, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for

community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

81821.5. The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities and sites or major additions to existing facilities shall report to the chancellor's office on plans to achieve: (a) a greater use of any joint or contiguous recreation and park facilities by the district; and (b) possible use by the total community of such facilities and sites and recreation and park facilities.

81822. The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes

therein as are appropriate, and approve or disapprove the plan. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after such approval or disapproval, notify the governing board of each community college district of the content of the district's plan for capital construction.

81823. (a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.

Article 3. Project Proposals

81830. Any community college district may submit a proposed project to the chancellor for review and approval or disapproval. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 81821.

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821. Such review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable

under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available therefor, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by Section 81838, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district matching share for the cost of the project or one or more of its phases, computed pursuant to Section 81838, the district shall provide the moneys available, as defined by the board of governors, and state funds may be requested to provide the balance of funds required.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis, if the district has funds pursuant to Section 81838, by the state and the district, the total state funds required by appropriation, and the state funds required to be provided for the project or one or more of its phases.

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding April 1st of each year.

81836. The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the chancellor's office for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the chancellor for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to Section 81831, the chancellor's office shall charge a reasonable fee as established by the

board of governors.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred thousand dollars ($100,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

81838. In determining a community college district's matching share, the chancellor's office shall do the following:

(a) Determine the average statewide ending balance per weekly student contact hour according to the following procedure:

(1) For each district divide the total prior year's net ending balance of all budget funds established and maintained, minus excluded funds as defined by subdivision (c), by that district's annual weekly student contact hours for the same fiscal year.

(2) Compute the mean average district ending balance per weekly student contact hour for the prior fiscal year by dividing the total of ending balances statewide by the total statewide weekly student contact hours for the same fiscal year.

(b) Determine the state-local matching shares for each community college district according to the following procedure:

(1) For each district compute a factor by dividing the amount calculated in paragraph (1) of subdivision (a) by the statewide average district ending balance per weekly student contact hour computed pursuant to paragraph (2) of subdivision (a).

(2) The distict local matching share shall be equal to 50 percent of the project cost multiplied by the factor.

(c) As used in this chapter, "excluded funds" means any of the following:

(1) Moneys designated for specific projects included in the district's five-year plan, which were included in the Budget Act of 1980 or a prior Budget Act.

(2) Moneys designated for 100 percent locally funded projects which were approved by the chancellor's office prior to July 1, 1981.

(3) Restricted and committed revenues such as those moneys collected for community service programs, student health activities, food services, book stores, parking, district self-insurance, California State Teachers' Retirement System, Public Employees' Retirement System, and others as certified to by the district governing board and approved by the chancellor's office.

81839. The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state.

81840. This chapter shall remain in effect only until July 1, 1982, and as of such date is repealed unless a statute which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 3. (a) There is hereby appropriated from the Capital Outlay Fund for Public Higher Education to the Board of Governors of the California Community Colleges the sum of four million four hundred seventy-three thousand two hundred fifty dollars ($4,473,250) to be allocated, subject to the prior approval of the State Public Works Board, by the Board of Governors of the California Community Colleges to community college districts for expenditure by such districts as set forth in the schedule below:

Imperial Community College District,	
Imperial Valley College:	
(1) Working drawings and construct removal of architectural barriers	135,700
Los Angeles Community College District,	
East Los Angeles College:	
(2) Working drawings and construct removal of architectural barriers	55,300
(2.5) Replacement of air conditioning system in the existing library provided that the district provides equivalent matching funds prior to the State Public Works Board allocation	80,500
Los Angeles Harbor College:	
(3) Working drawings and construct removal of architectural barriers	62,500

Los Angeles Southwest College:	
(4) Working drawings and construct removal of architectural barriers	38,700
Los Angeles Valley College:	
(5) Working drawings and construct removal of architectural barriers	46,200
Los Angeles City College:	
(6) Working drawings and construct removal of architectural barriers	83,800
West Los Angeles College:	
(7) Working drawings and construct removal of architectural barriers	18,500
San Mateo Community College District,	
Skyline College:	
(8) Working drawings and construct removal of architectural barriers	33,500
Los Angeles Community College District,	
Los Angeles Trade-Tech College:	
(9) Working drawings and construct removal of architectural barriers	56,500
San Mateo Community College District,	
Canada College:	
(10) Working drawings and construct removal of architectural barriers	19,100
College of San Mateo:	
(11) Working drawings and construct removal of architectural barriers	18,400
Los Angeles Community College District,	
East Los Angeles College:	
(12) Working drawings and construct remodel existing library	128,800
Saddleback Community College District,	
Saddleback College:	
(13) Working drawings for general classroom building	208,400
Kern Community College District,	

Cerro Cosa College:	
(14) Working drawings for occupational laboratory building	74,800
Peralta Community College District, Feather River College:	
(15) Working drawings and construct vocational building	650,800
Foothill-De Anza Community College District, Foothill College:	
(16) Working drawings for library addition	42,200
Los Angeles Community College District, Los Angeles Pierce College:	
(17) Working drawings and construct removal of architectural barriers	62,600
West Los Angeles Airport Center:	
(18) Working drawings and construct removal of architectural barriers	5,900
Los Rios Community College District, Sacramento City College:	
(19) Construct removal of architectural barriers	207,100
Compton Community College District, Compton College:	
(20) Construct and improve outdoor lighting system	108,100
Systemwide:	
(21) For purposes of providing the additional funds necessary to fully fund projects (1) through (20) of this subdivision in accordance with subdivision (c) of Section 81831 of the Education Code, as added by this act, provided that prior to requesting the State Public Works Board allocation, the need for such funds shall, on a project by project basis, be certified by the Chancellor's office and approved by the Department of Finance	2,186,300
(22) Project programming and preliminary plans	150,000

provided, that funds appropriated in this paragraph shall be released only for those major capital outlay projects for working drawings and construction, in those districts that do not have district matching funds in accordance with Section 81838 of the Education Code and which are anticipated to be included in the 1981–82 fiscal year Governor's Budget.

(b) The funds appropriated by this section are appropriated for expenditure during the 1980–81, 1981–82, and 1982–83 fiscal years, except that appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1980–81 fiscal year. In addition, every appropriation made by this section for construction, or working drawings and construction, that has not been approved by the State Public Works Board on or before June 30, 1981, shall revert as of that date to the Capital Outlay Fund for Public Higher Education.

SEC. 4. (a) There is hereby appropriated from the Energy and Resources Fund to the Board of Governors of the California Community Colleges the sum of fifty thousand dollars ($50,000) to be allocated to the Chancellor's Office of the California Community Colleges in accordance with the following schedule:

Schedule:
Systemwide, Energy Conservation Projects:
(1) Project programming and preliminary plans..... 50,000

(b) The funds appropriated by this section shall not be allocated prior to the approval by the Department of Finance of a statewide priority listing of the projects proposed to be funded in the 1981–82 Governor's Budget.

(c) Any funds appropriated by this section which are unallocated on June 30, 1981, shall revert as of that date to the Energy and Resources Fund.

SEC. 5. Section 4 of this act shall not take effect unless legislation is chaptered during the 1979–80 Regular Session establishing an Energy and Resources Fund.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the state share needed for community college construction projects not be underestimated in the 1980–81 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 911

An act to amend Section 15432 of the Government Code, and Section 436.2 of the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980]

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer (except in the case of community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital is a health facility having a duly

constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care including, but not limited to, medical, nursing, rehabilitation, dental or maternity.

(6) A "community clinic" is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a

laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 1.1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates,

administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer (except in the case of community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care including, but not limited to, medical, nursing, rehabilitation, dental or maternity.

(6) A "community clinic" is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501

of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a county or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 2. Section 436.2 of the Health and Safety Code is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new

buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any such buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of such construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of such construction or acquisition.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Article XIII, Section 21.5 of the California Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center. Except for facilities for the developmentally disabled, "health facility" does not include any institution furnishing primarily domiciliary care.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the definition set forth in this subdivision.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, or local hospital district.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

(s) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, which provides adult day health care, as defined under subdivision (a) of Section 1570.7.

This section shall become operative January 1, 1980.

SEC. 3. The sum of five hundred thousand dollars ($500,000) shall be appropriated, without regard to fiscal years, for funding establishment of adult day health centers licensed pursuant to Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code, subject to the conditions specified in this act. The State Department of Health Services may utilize such funds to contract with community organizations establishing adult day health centers, as follows:

(a) The amount of any funds allocated pursuant to any contract respecting a single adult day health center shall not exceed fifty thousand dollars ($50,000). Contract moneys shall be limited to a one-time funding, not a yearly funding.

(b) Contract moneys shall be used solely for necessary costs of facility rental, remodeling, and minimum staffing which are incurred

for operation of the adult day health center during the initial months of service. Such funds may be used to complete licensing requirements.

(c) Contract moneys shall not be disbursed until the proposal for establishing a center receives a favorable recommendation from the Adult Day Health Center Planning Council, as established pursuant to Section 1572.5 of the Health and Safety Code, and is approved by the State Department of Health Services.

(d) Each adult day health center assisted pursuant to a contract authorized by this act shall primarily serve the needs of eligible recipients of Medi-Cal benefits who are persons of low income or medically disadvantaged racial or ethnic minorities.

(e) Each contract shall be administered by the State Department of Health Services. The state shall provide 75 percent of the funds. The center shall provide 25 percent of the funds which may include in-kind contributions.

(f) Each adult day health center assisted pursuant to this act shall employ a full-time director responsible for the day-to-day operations of the center.

(g) The State Department of Health Services shall evaluate contract applications on the basis of potential effectiveness and impact of the proposal, financial need of the applicant, and demonstrated community support for the proposed adult day health center.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 3245 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 15432 of the Government Code, and this bill is chaptered after Assembly Bill 3245, that Section 15432 of the Government Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 3245, and that on the effective date of Assembly Bill 3245 Section 15432 of the Government Code, as amended by Section 1 of this act, be further amended in the form set forth in Section 1.1 of this act to incorporate the changes in Section 15432 proposed by Assembly Bill 3245. Therefore, if this bill and Assembly Bill 3245 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3245 is chaptered before this bill and amends Section 15432, Section 1.1 of this act shall become operative on the effective date of Assembly Bill 3245.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Funds are urgently needed for adult day health centers to serve the needs of eligible recipients of Medi-Cal benefits who are persons of low income or medically disadvantaged racial or ethnic minorities. It is, therefore, essential that this act go into immediate effect.

CHAPTER 912

An act to repeal and add Chapter 1 (commencing with Section 9000), Chapter 2 (commencing with Section 9100), Chapter 3 (commencing with Section 9200) and Chapter 4 (commencing with Section 9300) of, and to add Chapter 4.1 (commencing with Section 9320), Chapter 4.2 (commencing with Section 9340), Chapter 4.3 (commencing with Section 9350) and Chapter 4.4 (commencing with Section 9360) to Division 8.5 of the Welfare and Institutions Code, relating to older Californians.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Chapter 1 (commencing with Section 9000) of Division 8.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Chapter 1 (commencing with Section 9000) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 1. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY AND PURPOSE

9000. This division establishes the Older Californians Act which reflects the policy mandates and directives of the Older Americans Act of 1965, as amended, and sets forth the state's commitment to its older population.

9001. The Legislature hereby finds and recognizes that:

(a) Older persons constitute a fundamental resource of the state which previously has been undervalued and poorly utilized, and that ways must be found to enable older people to apply their competence, wisdom, and experience for the benefit of all Californians;

(b) There is a continuing increase in the number of older people in proportion to the total population;

(c) Today, 12.5 percent of California's population currently is 60 years of age and over;

(d) By the year 2020, older persons will represent 25 percent of California's total population;

(e) While the number of persons over 60 years of age is increasing rapidly, older women, minorities and persons over the age of 75 are expanding at an even greater rate;

(f) Among these persons over 75 years of age, there is a higher incidence of functional disabilities;

(g) The social and health problems of the older person are further compounded by inaccessibility to existing services and by the unavailability of a complete range of services;

(h) Services to older persons are administered by many different

agencies and departments and the planning and delivery of these services is not carried out with any degree of coordination among those agencies;

(i) The ability of the constantly increasing number of aged in the state to maintain self-sufficiency and personal well-being with the dignity to which their years of labor entitle them and to realize their maximum potential as creative and productive individuals are matters of profound importance and concern for all of the people of this state.

9002. The Legislature declares that it is the policy of the state to:

(a) Insure participation by older persons in the planning and operation in all programs and services that may affect them;

(b) Participate fully in programs at all levels of government the purposes of which are to foster and promote community planning and services for the economic, social and personal well-being of older persons;

(c) Insure that the planning and operation of programs on all levels of government be undertaken as a partnership with older residents, providers of services, area agencies on aging, advisory councils, and community senior groups;

(d) Encourage agencies on all levels of government as well as the private sector to develop alternative services and forms of care that provide a range of services delivered in the community, in the home, in care providing facilities, and services which facilitate access to other services which support independent living in the community and prevent unnecessary institutionalization;

(e) Give priority in planning services and programs to those older persons with the greatest economic and social need;

(f) Provide programs which will assure the delivery of a full array of services to older persons including, but not limited to:

(1) Supportive services.
(2) Health-related services.
(3) Counseling services.
(4) Affordable and safe housing.
(5) Employment services.
(6) Transportation services.
(7) Nutrition services.
(8) Legal services.
(9) Information and referral services.
(10) Cultural services.
(11) Mental health services.

(g) Require joint program planning and policy development among state and local agencies which, (1) recognize and strengthen the personal and community support networks to which people belong and on which they depend, (2) administer programs and deliver services to the older population.

(h) Provide a comprehensive and integrated system of health and social services which respond to individual needs.

9003. If the United States Department of Health and Human

Services issues a formal ruling that any section of this code relating to aging cannot be given effect without causing this state's plan to be out of conformity with federal requirements, the section shall become inoperative to the extent that it is not in conformity with federal requirements.

SEC. 3. Chapter 2 (commencing with Section 9100) of Division 8.5 of the Welfare and Institutions Code is repealed.

SEC. 4. Chapter 2 (commencing with Section 9100) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 2. DEFINITIONS

9100. "Commission" means the California Commission on Aging.

9101. "Department" means the Department of Aging.

9102. "Director" means the Director of the Department of Aging.

9103. "Older person" or "elderly" means a person 60 years of age or older unless in conflict with federal requirements.

9104. "Committee" means the California Interdepartmental Committee on Aging.

9105. "Preventive services" means services which avoid dependency and assist older persons in maintaining their good health, well-being and growth.

9106. "Advisory council" means a specific representative body of laypersons and service providers which represent the interests of the elderly within the boundaries of a planning and service area and which is officially recognized by the area agency on aging, the commission and the department as such.

9107. "Supportive services" means services which maintain individuals in home environments and avoid institutional care.

9108. "Planning and service area" means an area specified by the department as directed by the Older Americans Act of 1965, as amended.

9109. "Area agency on aging" means an identifiable private nonprofit or public agency designated by the Department of Aging which works for the interests of older Californians within a planning and service area. This agency engages in community planning, coordination and program development and, through contractual arrangements, provides a broad array of social and nutritional services.

9110. "Long-term care" refers to the organized system of a variety of formal and informal services to assist the older person, as well as their family, to achieve and maintain optimum well-being.

9111. "Frail elderly" means a person having those chronic physical or mental limitations which restrict individual ability to carry out normal activities of daily living and which threaten an individual's capacity to live an independent life.

9112. "Greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the

Bureau of the Census.

9113. "Greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, cultural or social isolation, including that caused by racial and ethnic status (for example Black, Hispanic, American Indian, and Asian American) which restrict an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently.

9114. "Comprehensive and coordinated system" means a program of interrelated social and nutrition services designed to meet the needs of older persons in a planning and service area.

9115. "Personal and community support networks" means families, friends, neighbors, church groups and community organizations to which the elderly naturally turn to for assistance.

9116. "Aging network" means those public and private agencies and organizations funded under the Older Americans Act as well as service providers and other organized bodies expressing interest in aging network communication, such as senior advocacy organizations, local aging commissions, community councils on aging, and local officials.

SEC. 5. Chapter 3 (commencing with Section 9200) of Division 8.5 of the Welfare and Institutions Code is repealed.

SEC. 6. Chapter 3 (commencing with Section 9200) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 3. CALIFORNIA COMMISSION ON AGING

9200. There is in the state government the California Commission on Aging. The commission shall be:

(a) Composed of 25 persons.

(1) Nineteen persons appointed by the Governor. Nine of the 19 persons shall be appointed by the Governor from lists of nominees submitted by the area agency on aging advisory councils. At least five names shall be submitted as nominees for each vacancy.

(2) Three persons appointed by the Speaker of the Assembly.

(3) Three persons appointed by the Senate Rules Committee.

(b) Comprised of a majority of members 60 years of age or older.

(c) Comprised of actual consumers of services under the Older Americans Act, as amended.

(d) Composed of representatives of the geographic, cultural, economic and other social factors in the state.

(e) The commission composition requirements shall be complied with as vacancies occur.

9200.5. The term of office of members of the commission shall be three years. Members shall not serve more than two terms. The members shall select one of their members to serve as chairperson and one of their members to serve as vice chairperson on an annual basis.

A commissioner who fails to attend two consecutive monthly

meetings or who fails to attend nine meetings per year, without having given written excuse acceptable to the commission, shall cause the commission to notify the appointing authority, and the appointing authority may declare the position vacant.

A representative from the California Interdepartmental Committee on Aging (CICA), other than from the Department of Aging, shall attend the commission meetings.

9201. The duties and functions of the commission shall be to:

(a) Serve as the principal advocate body in the state on behalf of older persons, including, but not limited to, advisory participation in the consideration of all legislation and regulations made by state and federal departments and agencies relating to programs and services that affect older persons.

(b) Participate with the department in training workshops for community, regional and statewide senior advocates, to help older persons understand legislative, regulatory and program implementation processes.

(c) Prepare, publish and disseminate information, findings and recommendations regarding the well-being of older adults.

(d) Actively participate and advise the Department of Aging in the development and preparation of the State Plan on Aging, conduct public hearings on the State Plan on Aging, review and comment on the state plan, and monitor the progress of the plans' implementation.

(e) Meet formally on a monthly basis in order to study problems of older persons, present findings and make recommendations.

(f) At least six of the meetings shall be with the director and at least six of the meetings shall be held in various parts of the state.

(g) Hold hearings throughout the state, in order to gather information and advise the Governor, Legislature, Department of Aging and agencies on all levels of government regarding solutions to problems confronting older persons and the most effective use of existing resources and available services for older persons.

(h) Hire an executive director and, within budgetary limits, such staff as may be necessary for the commission to fulfill its duties.

(i) Develop in cooperation with the department a method for the selection of delegates to the statewide legislative meeting of senior advocates.

(j) The commission shall solicit the advice and recommendations of the California Interdepartmental Committee on Aging (CICA) in a manner that shall include, but not be limited to, attending at least six meetings chosen by the CICA membership, and active involvement by the members of the CICA in providing technical assistance to the committees of the commission.

(k) Perform other duties as may be required by statute, regulation or resolution.

(*l*) Meet and consult with the area agency on aging advisory councils in order to exchange information, and assist in training, planning, and development of advocacy skills.

9202. The commission shall prepare and submit a written annual report to the Governor, describing the activities and recommendations of the commission. This report shall reflect the advice of California's older population, and shall include, but not be limited to, information from the area agency on aging advisory councils.

9203. The commission may accept gifts and grants from any source, public or private, to assist it in the performance of its functions, and such gifts and grants shall operate to augment any appropriation made for the support of the commission, provided that the office shall serve as the fiscal agent for the accounting of such gifts and grants and that no gifts or grants shall be used for the operation by the commission of direct service programs which would conflict with the department's duties and functions as described by law.

9204. Wherever there is a reference in any statute of this state to the Citizens Advisory Committee on Aging of the California Commission on Aging, it shall be construed to refer to the California Commission on Aging; provided that such reference concerns an advisory or advocacy function, or a function described in Section 9201. Any other such reference shall be construed to refer to the Department of Aging.

9205. Members of the commission shall be reimbursed for their actual and necessary travel and other expenses incurred in the performance of their official duties.

SEC. 7. Chapter 4 (commencing with Section 9300) of Division 8.5 of the Welfare and Institutions Code is repealed.

SEC. 8. Chapter 4 (commencing with Section 9300) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4. DEPARTMENT OF AGING

9300. There is in the state government in the Health and Welfare Agency a Department of Aging.

9301. The Department of Aging consists of a director, deputy director and such staff as may be necessary for proper administration. Department activities shall include, but not be limited to: (a) comprehensive program planning, development and evaluation; (b) information and dissemination activities; (c) coordination of all levels of government; (d) administration of programs funded under the Older Americans Act; and (e) shall include training and staff supportive activities.

The Department of Aging shall maintain its main office in Sacramento.

9302. The Governor, with the consent of the Senate, shall appoint a director of the Department of Aging. The Governor shall consider, but not be limited to, recommendations from the California Commission on Aging. The director shall have: (a) training in the field of gerontology, social work, public health, public administration

or other related fields; (b) direct experience or extensive knowledge of programs and services related to the elderly; (c) has demonstrated understanding and concern for the welfare of the elderly; and (d) demonstrated competency and recent working experience in an administrative, supervisory, or management position. The director shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

9303. The director shall:

(a) Be responsible for the management of the department;

(b) Implement and administer the laws pertaining to this division;

(c) Advise the Secretary of the Health and Welfare Agency and the Governor on new legislation, programs and policy initiatives, especially in the areas of coordinating services for older people that are administered by state agencies and any area supportive of long-term care for older persons;

(d) Participate and serve as a member or designate a representative to participate as a member of regulatory panels or advisory boards such as the California Commission on Aging, the California Association of Area Agencies on Aging, or others deemed appropriate;

(e) Convene and chair the California Interdepartmental Committee on Aging;

(f) With the advice of the Commission on Aging, adopt, amend or repeal regulations and general policies affecting the purposes, responsibilities and jurisdiction of the department and which are consistent with law and necessary for the administration of this division;

(g) Request the commission's recommendations on departmental policy and program activities, and take the commission's findings, recommendations and comments under advisement;

(h) Assist the California Commission on Aging in carrying out its mandated duties and responsibilities; and

(i) Perform other duties as prescribed by law.

9304. Subject to the State Civil Service Act, the director shall appoint such assistants and other employees as are necessary for the administration of the affairs of the department, and shall prescribe their duties. Appointments shall be made that ensure programs, policy development and evaluation will be administered by employees having gerontological training or relevant experience. Appointments shall be made in accordance with the age-affirmative policy established by state law, the department, and the State Personnel Board which shall serve as a model for employing qualified persons 60 years of age or older.

The department shall appoint, by January 1, 1982, seven persons with expertise in the following areas: preventative and traditional

health services, social service, employment/education/preretirement training, transportation, mental health, housing, and crime against the elderly and elder abuse. Persons serving in these positions shall:

(a) Provide technical assistance to area agencies on aging;

(b) Act as liaisons with appropriate state and federal agencies; and

(c) Be responsible for being currently informed about grants, programs, and services available to older persons in California.

The department shall encourage internships, to be coordinated with schools of gerontology or related disciplines. The department shall also encourage internships for older persons.

The department shall designate employees to provide information and technical assistance to rural area agencies on aging. These staff persons shall be familiar with all the programs and funding available to rural areas and shall inform the rural area agencies on aging of these programs and funding.

9305. The department is the single state unit for supervision of all programs under the Older Americans Act of 1965, as amended.

9306. The duties and powers of the department shall be:

(a) Give priority to those agencies, programs, services and activities that support independent living;

(b) Administer the State Plan on Aging, as required by federal law;

(c) Establish a formal process that encourages and accommodates local, regional and statewide input into the development stages of the State Plan on Aging which shall be coordinated with and include the area agencies on aging, the California Commission on Aging and other persons or entities having professional responsibilities, or personal interest in programs for older persons;

(d) Coordinate and assist public and nonprofit private agencies in the planning and development of programs, to establish a statewide network of comprehensive, coordinated services and opportunities for older persons; and

(e) Study those aspects of the problems of aging necessary to accomplish the purposes of this division through such activities as: conducting and arranging for research, gathering statistics, and hold hearings.

9306.1. The department shall:

(a) Represent the interests of the state's older population by monitoring and assessing the state and federal regulations and legislative proposals pertaining to the needs of California's older population, and submit recommendations to the Governor, Legislature, regulatory agencies or other entities for relevant action;

(b) Maintain a clearinghouse of information related to the interests and needs of older persons and provide referral services, if appropriate;

(c) Have primary responsibility for information received and dispersed to the area agencies on aging;

(d) Establish and maintain, by July 1, 1982, a management

information system which supports the administration of the department;

(e) Establish and maintain, by July 1, 1982, a data base on service utilization patterns and demographic characteristics of the older population to be cross-classified by age, sex, race and other information required for the planning process;

(f) Assess the need for services for the older population within the state and determine the extent to which the state's service delivery system is serving those older persons with the greatest economic or social need;

(g) Encourage and support the involvement of volunteers in services to older persons; and

(h) Seek ways to utilize the private sector to assume greater responsibility in meeting the needs of older persons.

9306.2. The department shall be responsible for activities which promote the development, coordination and utilization of resources to meet the long-term care needs of older persons. Such responsibilities shall include, but not be limited to:

(a) Developing, by July 1, 1982, the capability to conduct research in the areas of alternative social and health care systems for older persons;

(b) Convening agencies and departments who administer health, social and related services for the purposes of (1) policy development, (2) development of care standards, (3) consistency in application of policy, (4) evaluation of alternative uses of available resources toward greater effectiveness in service delivery, and (5) insure ongoing response to the identified special needs of the chronically impaired to provide support which maximizes their level of functioning; and

(c) Establishing a statewide uniform reporting system to collect and analyze data relative to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The department shall submit the data to the state agency responsible for licensing or certifying long-term care facilities and to the federal agency on aging.

9306.3. The department shall:

(a) Monitor and evaluate programs and services administered by the department utilizing standardized methodology.

(b) Establish criteria for the designation, sanctioning and defunding of area agencies on aging.

9306.4. The department is hereby granted the authority to promulgate regulations for the purpose of carrying out the provisions of this division.

9307. The department shall prepare and submit each year, on October 30th, a written report to the Governor, Speaker of the Assembly, the Senate Rules Committee and the California Commission on Aging. This report shall:

(a) Be reflective of the progress, problems, and recommendations made throughout the year with regard to the department's

three-year State Plan on Aging; and

(b) Include any service data or evaluations completed by the department of programs administered by the department.

9308. The department may accept gifts and grants from any source, public or private, to assist it in the performance of its functions, and such gifts and grants shall operate to augment any appropriation made for the support of the department.

9309. In addition to any nutrition programs conducted under the McCarthy-Kennick Nutrition Program for the Elderly Act of 1972 (Chapter 5.7 (commencing with Section 18325) of Part 6 of Division 9), the department, with the approval of the Department of Finance, may make funds available from Section 17 of Chapter 157 of the Statutes of 1976 and Chapter 3 (commencing with Section 9200) to other nutrition projects serving the needs of individuals aged 60 or over and their spouses provided by public or private nonprofit persons or agencies upon such terms and conditions as the department specifies.

9310. The department may make grants from available state funds to fund senior nutrition programs which complement programs implemented pursuant to Title III of the federal Older Americans Act. To qualify for such grants, a program shall include the following:

(a) Participation of senior volunteers in the operation of the program.

(b) Utilization of entirely donated food.

(c) Distribution of food on a regular basis.

Grant funds shall be used for the collection, storage, and distribution of food, but not for personnel costs.

SEC. 9. Chapter 4.1 (commencing with Section 9320) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.1. PROGRAMS FOR OLDER PERSONS: A FRAMEWORK FOR THE COORDINATION AND INTEGRATION OF STATE SERVICES

9320. The Legislature declares that a major portion of the fragmentation of service delivery to older persons at the state and local levels can be corrected by coordinating information with, and receiving commitments from agencies who administer services to the older population.

(a) The coordination will allow the department to:

(1) Stay informed of new policy and program developments that affect older persons;

(2) Inform the area agencies on aging and senior groups of those policy and program developments; and

(3) Review and comment on those policy and program changes.

(b) The commitments received from other departments and agencies shall include, but not be limited to:

(1) Informing the Department of Aging of any change in policy, program or activity that affects older persons; and

(2) Identifying for the Department of Aging the planning, review and comment cycle of each major plan, grant or regulatory scheme administered by that department or agency.

(c) Furthermore, it is the policy of the state to:

(1) Assign a single state department the lead authority to coordinate the information and commitments administered by state agencies;

(2) Ensure that state departments and agencies develop and implement programs pursuant to the policy directives of this act;

(3) Promote accessibility and efficiency in the planning, coordination and delivery of services to older persons; and

(4) Designate the Department of Aging as the state department with lead authority.

9321. The State Department of Health Services shall:

(a) Develop overall goals, objectives and priorities for the health care of the older population pursuant to the policy objectives of this act, and in coordination with the Department of Aging;

(b) Advocate the development of more viable alternatives to institutionalization to ensure an array of available services;

(c) Emphasize preventative health services for older persons that support and encourage independent living;

(d) Develop, support and conduct research on long-term care;

(e) Develop alternatives to long-term care in cooperation with the Department of Social Services;

(f) Coordinate the postsecondary education community for input and research in gerontology;

(g) Develop and encourage teaching and training opportunities in the field of geriatrics; and

(h) Develop, stimulate and support the network of health services for older persons through the local health departments and the area agencies on aging.

9322. The State Department of Mental Health shall:

(a) Provide for the inclusion of geriatric services in departmental policies and programs that would commit both state and local agencies toward meeting the needs of the mentally impaired older person;

(b) Develop overall goals, objectives and priorities for the mental health care of older people, earmark funds for geriatric services;

(c) Require counties to develop programs that would enable older persons to function at their optimum capacity in the community;

(d) Include a geriatric component in the county minimum standards guidelines; and

(e) Develop joint training programs with the Department of Aging on analyzing county mental health plans, influencing local mental health policy, and promoting geriatric programs.

9323. The Office of Statewide Health Planning and Development shall:

(a) Establish formal communication between local health systems

agencies and area agencies on aging, in order to encourage an increased awareness of the health care needs and problems of older people;

(b) Request age-related data from those facilities required by law to submit annual reports; and

(c) Encourage the development of a wide range of facilities that supports the continuum of care concept.

9324. The Department of Transportation shall:

(a) Work toward reducing fragmentation and overlap in transportation services;

(b) Establish joint transportation policies which augment the state's health and social service system for older adults; and

(c) Promote the establishment of an accessible transportation system which is directed toward assisting those older persons with the greatest economic or social need.

9325. The Department of Housing and Community Development shall:

(a) Conduct a joint departmental study on the present status and future projections of housing and issues of concern that face the state's older population;

(b) Establish a procedure whereby staff persons from the two departments shall train the area agencies on aging on how to intervene in the planning and review process for county housing plans and community development block grants;

(c) Develop programs and policies which are directed toward the provision of suitable, affordable, culturally sensitive, and attainable housing for the state's low-income older population in both rural and urban areas; and

(d) Provide technical assistance and advice on alternative housing opportunities available to older persons.

9326. The California Arts Council and the Department of Aging shall:

(a) Work together to identify those creative and cultural needs related to older persons;

(b) Provide for coordination in furnishing intergenerational art programs as enhancement of the quality of life for older persons;

(c) Provide advice and technical assistance in the development of intergenerational art programs;

(d) Provide arts information as a component of the existing information and referral service network to assure access to community art programs to older persons; and

(e) Encourage all applicants for contracts and services to include older persons in their programs.

9327. The Department of Education shall:

(a) Encourage the utilization of public school facilities in meeting the nutritional needs of older persons;

(b) Encourage increased cooperation with other community agencies and organizations to use school facilities as a site for delivering services to the elderly;

(c) Encourage greater opportunities for older people to participate in education, recreational and cultural activities in the schools and to utilize their skills and talents in the educational system;

(d) Help the general population understand the process of aging, the life cycle and the valuable contributions to society made by older citizens;

(e) Promote the study of aging as a normal part of the life process by encouraging intergenerational discussion, curricula development and cooperation with teacher training institutions;

(f) Encourage programs which educate and train older adults in order to help them develop new career skills; and

(g) Encourage educational opportunities for older persons in adult, vocational and continuing education.

(h) Encourage access by culturally diverse populations to such opportunities by employing culturally sensitive procedures to inform them.

9328. The Employment Development Department shall:

(a) Provide such services as are necessary and available to ensure equal employment opportunities for older workers in competition with other workers of similar qualifications;

(b) Ensure equity of effort between those readily placeable and the hard-to-place by providing the hard-to-place with job search workshops, employment counseling, individual job development contracts and other employment-directed services;

(c) Ensure that within available resources, staff will be assigned who are knowledgeable regarding the special needs of older people;

(d) Maintain a continuing campaign on age, racial and sex discrimination in employment;

(e) Contact and involve the area agencies on aging and local comprehensive employment and training prime sponsors (CETA) in the local comprehensive planning process;

(f) Assess the employment needs of older workers as well as identifying the resources available in the community to meet the needs of older workers;

(g) Explore, coordinate and further develop alternative work opportunities for older persons.

9329. The State Department of Social Services shall:

(a) Confer with the Department of Aging on those findings and recommendations contained in the social service plan as required by the Social Services Planning Act of 1978; and

(b) Emphasize those social services that provide an array of services designed to maintain maximum independence for older individuals.

9330. The State Department of Developmental Services shall:

(a) Assure that an appropriate share of funds available to the department for services to persons with special development needs are earmarked for older persons;

(b) Include age-related objectives in individual program plans;

(c) Encourage a working relationship between regional centers and area agencies on aging;

(d) Initiate an agreement with the Department of Aging to exchange appropriate data and information on older persons;

(e) Include specific reference to services provided to older persons in the State Plan For Developmental Disabilities; and

(f) Share information on the case management services to older persons with special developmental needs to assure that future case management efforts by the Department of Aging are not duplicatory or incompatible.

9331. The Franchise Tax Board shall:

(a) Maintain a tax assistance counseling program to assist older persons to make applications for and taking advantage of special tax programs; and

(b) Review tax forms used specifically by older persons in order to ensure that they contain only necessary information, be printed in large print and be simplified.

9332. The Department of Parks and Recreation shall:

(a) Encourage the increased utilization of the state parks system by older persons through program coordination with the Department of Aging and the area agencies on aging; and

(b) Give priority to community grants applicants that take into consideration recreational needs of older persons.

9333. The Legislature hereby declares that all other state agencies and departments not mentioned in the legislative guidelines under this chapter shall consult with the Department of Aging prior to the implementation of policies or services which impact the older population. All departments administering programs that have impact on California's older population are encouraged to adopt formal interagency policies with the Department of Aging and other departments and describing the integration of services and information between the two departments.

9334. The State Library shall:

(a) Provide consulting services and training resources to assist and encourage public and institutional libraries in developing programs and services for mobile, housebound, and institutionalized elderly;

(b) Encourage public and institutional libraries to promote the use of library services specially provided for the blind and physically handicapped to eligible elderly;

(c) Cooperate with other state level service agencies in the development of a statewide information and referral network and encourage public and institutional libraries similarly to cooperate at local and regional levels; and

(d) Coordinate such information and referral services through and with existing information and referral centers.

9335. The Department of Consumer Affairs shall:

(a) Assess the impact of its Division of Consumer Services' Programs, in the division's annual planning processes, in considering

the special needs of older persons.

(b) Periodically review and monitor the impact of its boards' and bureaus' licensees' practices on older persons, and assure that their licensing policies do not discriminate against older workers.

(c) Establish a technical assistance program to encourage the development of community discount programs for senior citizens, known as the Golden State Senior Citizen Discount Program.

(d) Promote cooperation for the maintenance of an affirmative statewide network of groups representing older persons and consumers.

SEC. 10. Chapter 4.2 (commencing with Section 9340) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.2. CALIFORNIA INTERDEPARTMENTAL COMMITTEE ON AGING

9340. The Legislature hereby declares that the California Interdepartmental Committee on Aging shall exist on a state level. This policy development committee shall work toward providing services and programs for older Californians that result in a comprehensive and coordinated service system.

9341. The directors of all state agencies and departments who sponsor, administer or participate in programs of current or future benefit to older persons, shall be members of the California Interdepartmental Committee on Aging.

9342. The California Interdepartmental Committee on Aging shall:

(a) Convene monthly as called by the Department of Aging;

(b) Identify programs and services that affect older persons in California;

(c) Collect and analyze available data and promote the development of uniform data collection on the older population;

(d) Identify priority issues to be studied and addressed, and implemented as mandated by Chapter 3 (commencing with Section 9200) and Chapter 4 (commencing with Section 9300);

(e) Identify duplications and gaps in services and programs for older persons, and develop policies and plans for their elimination through both joint and individual efforts of member departments;

(f) Require each member department to include in its plans, a description of efforts it will undertake to identify and eliminate duplications and gaps in services;

(g) Establish ad hoc committees that focus on identified priority issues and present findings for action by the full committee;

(h) Seek and utilize outside services for additional program resources;

(i) Establish a standing committee to develop recommendations for the coordination of those health and social services necessary to the provision of long-term care;

(j) Establish other standing or ad hoc committees to focus on

priority issues and present findings and recommendations to the full committee;

(k) Require that one or more of its members meet at least six times annually with the California Commission on Aging to report on the CICA's activities and to make recommendations to the commission; and

(*l*) Assign its members to provide ongoing technical assistance to the various committees of the commission.

9343. The committee shall be staffed by the Department of Aging. The Department of Aging shall provide for gerontological training to members of the interdepartmental committee and provide direction to the committee based on the department's perceptions of priority and need for California's older people.

The Department of Aging shall also develop a staff exchange program to educate personnel involved in planning, implementation or evaluation of programs and services for older persons. The Legislature hereby recommends the creation of special jointly funded positions between the Department of Aging and member departments in order to establish expertise in program planning, implementation and evaluation and to encourage sensitivity to the needs of older persons.

SEC. 11. Chapter 4.3 (commencing with Section 9350) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.3. AREA AGENCIES ON AGING

9350. The Legislature hereby declares and recognizes the area agencies on aging to be the local unit on aging.

9351. The duties and powers of the area agencies on aging shall be to:

(a) Represent older persons within the planning and service area;

(b) Assist older persons in obtaining the rights, benefits and entitlements currently available under the law;

(c) Identify special needs or barriers to maintaining personal independence;

(d) Ensure that community services within the planning and service area consider the needs of the older population by educating and actively encouraging older people to become involved in the development of other agency plans that affect older people;

(e) Conduct public hearings on the needs of older persons;

(f) Coordinate activities in support of the statewide long-term care ombudsman program; and

(g) Represent the interests of older persons to public officials, public and private agencies or organizations.

9352. Also, the duties and powers of the area agencies on aging shall be to:

(a) Develop and administer an area plan for a comprehensive and coordinated service delivery system in the planning and service area;

(b) Ensure that the area plan contributes to and is reflected in the

State Plan on Aging;

(c) Encourage and provide opportunities for public input by:

(1) Holding public hearings on the area plans and on problems and needs of older persons in conjunction with the area agency advisory councils;

(2) Establish communication linkages with the local media to inform the public on an ongoing basis of available services and opportunities to contribute to the planning and implementation of those services;

(d) Assess the need for services within the planning and service area and determine the effectiveness of existing services in meeting the needs of older persons;

(e) Take advantage of opportunities to educate and inform the public in general of the needs of older persons;

(f) Promote case management whenever possible, as a system to respond to those older persons needing special help with personal, social or economic needs;

(g) Designate an interagency committee on aging composed of local public agencies, such as health systems agencies and health and transportation agencies, private service providers and senior organizations in order to improve the coordination of services to older persons;

(h) Review and comment on area plans prepared by other agencies that may affect older persons;

(i) Provide information to the department on special needs, experiences and programs within the planning and service area;

(j) Receive information from the department regarding legislation, regulation and policy direction; and

(k) Coordinate and assist local public and nonprofit private agencies in the planning and development of programs to establish an areawide network of comprehensive, coordinated services and opportunities for older persons.

9353. The area agencies on aging shall:

(a) Be headed by a full-time director;

(b) Request other staff in the area plan, subject to the approval of the Department of Aging; and

(c) Have a staffing level sufficient to carry out its powers and duties as required.

SEC. 12. Chapter 4.4 (commencing with Section 9360) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.4. AREA AGENCY ON AGING ADVISORY COUNCIL

9360. The Legislature hereby declares and recognizes each area agency on aging advisory council as a principal advocate body on behalf of older persons within a planning and service area.

9361. The duties and powers of each area agency on aging advisory council shall be to:

(1) Serve as adviser to the area agency on aging;

(2) Act as an independent advocate for older persons, taking positions on matters pertaining to federal, state and local policies, programs and procedures, and any legislation affecting older persons;

(3) Actively seek advice from community councils on aging, senior advocacy organizations, local aging commissions, elected officials, and the general public for the purpose of advocating for and making formal presentations on issues of concern to older persons;

(4) Inform local senior advocates and organizations on specific legislation pending before local, state and federal governments;

(5) Disseminate information of interest and concern to older persons;

(6) Be actively involved in the development, implementation and monitoring of the area plan;

(7) Hold an annual areawide meeting of senior advocates and organizations to prepare for the priorities for the ensuing year and elect delegates for the statewide legislative meeting of senior advocates; and

(8) Hold public hearings on the area plans with no less than 30-day notification to the general public and the aging constituency regarding dates, time, and location. Such notification shall contain understandable descriptions of area agency on aging and community-level plans in order to promote informed input.

9361.5. Each advisory council shall be nonpartisan in the conduct of its duties and functions.

9362. It is the intent of this act that each area agency on aging should provide staff assistance to each advisory council to assist in carrying out its duties as specified.

Each area agency on aging shall reimburse its advisory council members for actual and necessary expenses incurred while carrying out the duties of the advisory council within the planning and service area.

The Department of Aging in cooperation with the California Commission on Aging and the area agencies on aging shall annually provide specialized training for members of each advisory council in order to improve their functioning as advocates and for improving and expanding the role of older persons in the planning, implementation, delivery, and evaluation of services to older persons.

9363. Each advisory council shall prepare annually a report that gives its recommendations to improve the lives of older persons, and a summary of its activities for the previous year. The report shall be made available to its area agency on aging, the Department of Aging, the California Commission on Aging, the Assembly Committee on Aging, and, insofar as resources permit, to all other interested parties that seek a copy of the report.

9364. (1) Each advisory council shall adopt and follow bylaws concerning, but not necessarily limited to:

(a) Terms of membership and office,

(b) Election of officers,

(c) Frequency and notice of meetings,

(d) Accessibility of meetings to members of the general public,

(e) Rules regarding the conduct of council and council committee meetings,

(f) Removal of members and officers and the filling of vacancies,

(2) Members of advisory councils shall serve on the council for fixed terms.

(3) Advisory councils shall meet at least 10 times a year.

(4) No more than 50 percent of the council's membership shall be appointed by one official or body of officials.

(5) The advisory council membership shall be appointed through a process designated by the local governing bodies in the planning and service area within which the area agency on aging operates.

(6) Membership shall be composed of:

(a) A majority of persons 60 years of age or older.

(b) Service providers.

(c) Members who reflect the geographic, racial, economic, and social complexion of the planning and service area they represent.

(d) At least one member who represents the interests of the disabled.

(7) The advisory council composition requirements shall be complied with as vacancies occur.

9365. Nothing in this act shall be construed as limiting in any way the ability of each advisory council to serve as an advocate for all older persons.

CHAPTER 913

An act to add Chapter 11 (commencing with Section 4540) to Division 5 of Title 1 of the Government Code, relating to state buildings.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Chapter 11 (commencing with Section 4540) is added to Division 5 of Title 1 of the Government Code, to read:

CHAPTER 11. CHILD CARE FACILITIES FOR STATE EMPLOYEES

4540. The Legislature finds and declares that there is a substantial need to provide adequate child care facilities for state employees.

When the state constructs, acquires, or receives as a gift any office building which can accommodate 700 or more state employees, or when additions, alterations, or repairs are made to existing

state-owned office buildings which can accommodate 700 or more state employees, and such additions, alterations, or repairs both change and affect the use of 25 percent of the net square feet area of such building and include the addition to, alteration of, or repair of the first floor, adequate space shall be designated within such building to meet the child care needs of those employees, if a review of those employees slated to occupy the new or renovated building shows sufficient need for child care services for 30 or more children. The review shall be conducted by the Department of General Services and the Governor's Advisory Committee on Child Development Programs established pursuant to Section 8254 of the Education Code. The Director of the Department of General Services may secure space in any adequate facility for the same purposes only in the event that all other physical requirements controlling the development of such child care facilities within the office building cannot be utilized, provided that funds for such off-site facilities are made available.

It is the intent of the Legislature that existing state office buildings, at the discretion of the Director of General Services, may be retrofitted to accommodate a child care facility. State funds required for such retrofitting will be subject to regular budgetary procedures and approvals.

Space designed within a state-owned office building for such child care facility shall comply with the prevailing local and state safety building codes for child care facilities.

The indoor area shall not exceed 2,100 square feet, nor be less than that required to accommodate 30 children, excluding space for restrooms, kitchen facilities, storage areas, and teacher offices. Outdoor play area space shall correspond with the indoor play area as set forth in Title 22 of the California Administrative Code.

Utilization of the space shall be subject to terms and conditions as set forth by the Director of General Services. Such terms shall include payment of rent, proof of financial responsibility, and maintenance of space. The space shall be made available to the employees who wish to establish child care facilities at a rate to be established by the Director of the Department of General Services that is consistent with rental rates charged to state agencies occupying comparable state-owned space. Rent for non-state-owned space will be based upon the actual cost to the state.

The employee-occupants shall be notified in writing by the department or departments occupying the building, of the availability of space to be used for a child care facility no earlier than 180 days prior to the projected date of occupancy of a new building or space provided as the result of additions, alterations, or repairs to an existing state-owned building, and such additions, alterations, or repairs that both change and affect the use of 25 percent of the net square feet area of such building and include the addition to, alteration of, or repair of the first floor. If, within 30 days after full occupancy of a new office building or 30 days after the completion

of additions, alterations, or repairs to an existing state-owned office building, the employee-occupants so desiring have not filed an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care center, deposited two months' rent in a commercial or savings account, and entered into a contract with the Department of General Services, the space may be used for any other purpose, as long as no permanent alteration of the space occurs. Other purposes may include, but are not limited to, conference rooms, storage areas, or offices. The space for child care shall be held for the employee-occupants' nonprofit corporation only as long as they pay the monthly rent and meet the terms set forth in the contract. Payment of rent shall commence 30 days after full occupancy of a new office building or 30 days after completion of additions, alterations, or repairs, as specified in this section.

If at a later date, the employee-occupants so desiring (a) file an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care facility, (b) deposit two month's rent in a commercial or savings account, and (c) notify the Director of the Department of General Services of such actions, then the space shall be reconverted for child care purposes within 180 days of such notice.

Only children of whom at least one parent or guardian is a state employee may be served in the child care facility.

When a child care center has been operative for five years, the Director of the Department of General Services shall assess the child care needs of the state employees using the center and the office space needs of the building within which the center is located. If such assessment demonstrates a greater need for office space than for child care, the Director of the Department of General Services may close the child care center. Ninety days' written notice shall be given to the director or head teacher of the center of such closure.

This section shall not be construed to apply to those buildings which provide care or 24-hour residential care for patients, inmates, or wards of the state, such as state hospitals and correctional facilities.

4541. Child care facilities for the employees of the California State University and Colleges and the University of California shall be incorporated into the campus master plans and constructed subject to the provision of state funding appropriations by the Legislature. Determination of the need for, eligibility for use, and utilization of such facilities, shall be subject to terms and conditions of the trustees and the regents.

For the purposes of this chapter, only this section shall apply to the California State University and Colleges system and the University of California.

4542. This chapter shall not apply to the design of new state office buildings, additions, alterations, or repairs of existing state-owned office buildings, where the Public Works Board has approved, prior to the effective date of this chapter, the commencement of the working drawing phase of the new state office building.

CHAPTER 914

An act to add Part 2.9 (commencing with Section 80) to Division 1 of the Civil Code, relating to business relationships.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Part 2.9 (commencing with Section 80) is added to Division 1 of the Civil Code, to read:

PART 2.9. CALIFORNIA FAIR DEALERSHIP LAW

80. This part may be cited as the California Fair Dealership Law.

81. As used in this part:

(a) "Person" means a natural person, partnership, joint venture, corporation, or other entity.

(b) "Dealership" means a contract or agreement, either express or implied, whether oral or written, between two or more persons, by which a person is granted the right to sell or distribute goods or services, or to use a trade name, trademark, service mark, logotype, or advertising or other commercial symbol, in which there is a community of interest in the business of offering, selling, or distributing goods or services at wholesale, or at retail, by lease, agreement, or otherwise.

(c) "Grantor" means a person who sells, leases, or otherwise transfers a dealership.

(d) "Community of interest" means a continuing financial interest between the grantor and grantee in either the operation of the dealership or the marketing of such goods or services.

(e) "Dealer" means a person who is a grantee of a dealership situated in this state.

(f) "Grant" means a sale, lease, or transfer of any kind.

82. This part shall be liberally construed and applied to promote its underlying purposes and policies, which are as follows:

(a) The prohibition of discrimination based upon race, color, religion, national origin, ancestry, or sex in the granting, sale, transfer, bequest, termination, and nonrenewal of dealerships; and,

The requirements of this part shall not be varied by contract or agreement and any portion of a contract or agreement purporting to do so is void and unenforceable.

83. On or after January 1, 1981, no grantor, directly or indirectly, shall refuse to grant a dealership to any person because of the race, color, religion, national origin, ancestry, or sex of such person.

84. On or after January 1, 1981, no grantor, directly or indirectly, may terminate, cancel, or refuse to renew a dealership agreement because of the race, color, religion, national origin, ancestry, or sex

of the dealer.

85. On or after January 1, 1981, no grantor or dealer, directly or indirectly, shall refuse to make or to consent to an assignment, sale, transfer, or bequest of a dealership to any person, or to the intestate succession to the dealership by any person, because of the race, color, religion, national origin, ancestry, or sex of such person. This section shall not be construed to create any right in a dealer to assign, sell, transfer, or bequeath a dealership where the right did not exist prior to January 1, 1981.

86. The prevailing party in any action based on a violation of the provisions of this part shall be entitled to recover reasonable attorney's fees and taxable court costs.

SEC. 2. If any provision of this chapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

CHAPTER 915

An act to amend Sections 286, 288a, and 289 of the Penal Code, relating to sexual assault.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of sodomy when the act is

accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for five, seven or nine years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 2. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 3. Section 289 of the Penal Code is amended to read:

289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person, by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) As used in this section, "foreign object, substance, instrument, or device" shall not include any part of the body.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 916

An act to add Section 1704.5 to the Health and Safety Code, relating to physicians and surgeons.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980]

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

SECTION 1. Section 1704.5 is added to the Health and Safety Code, to read:

1704.5. The failure of a physician and surgeon to inform a patient by means of a standardized written summary, as developed by the department on the recommendation of the Cancer Advisory Council, in layman's language and in a language understood by the patient of alternative efficacious methods of treatment which may be medically viable, including surgical, radiological, or chemotherapeutic treatments or combinations thereof, when the patient is being treated for any form of breast cancer constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

A standardized written summary in layman's language and in a language understood by the patient, to be developed by the department on the recommendation of the Cancer Advisory Council and printed and made available by the Board of Medical Quality Assurance to physicians and surgeons, informing the patient of the

advantages, disadvantages, risks and descriptions of the procedures with regard to medically viable and efficacious alternative methods of treatment, which is given to the patient shall constitute compliance with the requirements of this section.

CHAPTER 917

An act to amend Section 912 of, and to add Article 8.5 (commencing with Section 1035) to Chapter 4 of Division 8 of, the Evidence Code, to amend Section 1598.1 of the Health and Safety Code, and to amend Section 13516 of, and to add Article 3 (commencing with Section 13836) and Article 4 (commencing with Section 13837) to, Chapter 1 of Title 6 of Part 4 of, the Penal Code, relating to sexual assault, and making an appropriation therefor.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

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

SECTION 1. Section 912 of the Evidence Code is amended to read:

912. (a) Except as otherwise provided in this section, the right of any person to claim a privilege provided by Section 954 (lawyer-client privilege), 980 (privilege for confidential marital communications), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1033 (privilege of penitent), 1034 (privilege of clergyman), or 1035.8 (sexual assault victim-counselor privilege) is waived with respect to a communication protected by such privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to such disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has the legal standing and opportunity to claim the privilege.

(b) Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), or 1035.8 (sexual assault victim-counselor privilege), a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by Section 980 (privilege for confidential marital communications), a waiver of the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege.

(c) A disclosure that is itself privileged is not a waiver of any

privilege.

(d) A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), or 1035.8 (sexual assault victim-counselor privilege), when such disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, physician, psychotherapist, or sexual assault counselor was consulted, is not a waiver of the privilege.

SEC. 2. Article 8.5 (commencing with Section 1035) is added to Chapter 4 of Division 8 of the Evidence Code, to read:

Article 8.5. Sexual Assault Victim-Counselor Privilege

1035. As used in this article, "victim" means a person who consults a sexual assault victim counselor for the purpose of securing advice or assistance concerning a mental, physical, or emotional condition caused by a sexual assault.

1035.2. As used in this article, "sexual assault victim counselor" means a person who is engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who is registered as a sexual assault victim counselor with the Division of Allied Health Professions of the Board of Medical Quality Assurance. To register, a sexual assault counselor shall meet one of the following requirements:

(a) Be a psychotherapist as defined in Section 1010; or have a master's degree in counseling or a related field; or have two years of supervised counseling experience, at least one of which is in rape crisis counseling; or

(b) Have 40 hours of training as described below and be supervised by an individual who qualifies as a counselor under subdivision (a). The training, to be supervised by a person qualified under subdivision (a), shall include, but not be limited to, the following areas: law, medicine, societal attitudes, crisis intervention and counseling techniques, role playing, referral services, and sexuality.

1035.4. As used in this article, "confidential communication between the sexual assault counselor and the victim" means information transmitted between the victim and the sexual assault counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information regarding the victim's prior or subsequent sexual conduct, and opinions regarding the victim's sexual conduct or

reputation in sexual matters. The term does not include advice given by the sexual assault counselor on potential testimony in court.

Information received by the sexual assault counselor which constitutes relevant evidence of the facts and circumstances involving an alleged sexual assault about which the victim is complaining and which is the subject of a criminal proceeding is not a confidential communication.

In the event of a dispute regarding what is or is not a confidential communication, the following procedure shall be followed:

(1) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence containing prior inconsistent statements for the purposes of impeachment or evidence that any element of the offense charged is not present.

(2) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated.

(3) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at such hearing allow the questioning of the sexual assault counselor regarding the offer of proof made by the defendant.

(4) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant pursuant to Section 780, and is admissible pursuant to Section 352, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

1035.6. As used in this article, "holder of the privilege" means:

(a) The victim when such person has no guardian or conservator.

(b) A guardian or conservator of the victim when the victim has a guardian or conservator.

(c) The personal representative of the victim if the victim is dead.

1035.8. A victim of a sexual assault, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault victim counselor if the privilege is claimed by:

(a) The holder of the privilege;

(b) A person who is authorized to claim the privilege by the holder of the privilege; or

(c) The person who was the sexual assault victim counselor at the time of the confidential communication, but such person may not claim the privilege if there is no holder of the privilege in existence or if he is otherwise instructed by a person authorized to permit disclosure.

1036. The sexual assault victim counselor who received or made a communication subject to the privilege under this article shall claim the privilege whenever he is present when the communication is sought to be disclosed and is authorized to claim the privilege

under subdivision (c) of Section 1035.8.

1036.2. As used in this article, "sexual assault" includes:

(a) Rape, as defined in Section 261 of the Penal Code;

(b) Unlawful sexual intercourse, as defined in Section 261.5 of the Penal Code;

(c) Rape in concert with force and violence, as defined in Section 264.1 of the Penal Code;

(d) Sodomy, as defined in Section 286 of the Penal Code, except a violation of subdivision (e) of that section;

(e) A violation of Section 288 of the Penal Code;

(f) Oral copulation, as defined in Section 288a of the Penal Code, except a violation of subdivision (e) of that section;

(g) Annoying or molesting a child under 18, as defined in Section 647a of the Penal Code; or

(h) Any attempt to commit any of the above acts.

SEC. 3. Section 1598.1 of the Health and Safety Code is amended to read:

1598.1. The State Department of Social Services shall provide grants to proposed and existing local rape victim counseling centers. Such centers shall maintain a 24-hour telephone counseling service for rape victims, appropriate in-person counseling and referred service during normal business hours, and maintain other standards or services which shall be determined to be appropriate by the advisory committee established pursuant to Section 13836 of the Penal Code as grant conditions. The advisory committee shall identify the criteria to be utilized in awarding the grants provided by this chapter before any funds are allocated.

In order to be eligible for funding pursuant to this chapter, the centers shall demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources which may be used to augment any state funds appropriated for purposes of this chapter. Each center receiving funds pursuant to this chapter shall make every attempt to qualify for any available federal funding.

State funds provided to establish centers shall be utilized when possible, as determined by the advisory committee, to expand the program and shall not be expended to reduce fiscal support from other public or private sources. The centers shall maintain quarterly and final fiscal reports in a form to be prescribed by the advisory committee. In granting funds, the advisory committee shall give priority to centers which are operated in close proximity to medical treatment facilities.

SEC. 4. Section 13516 of the Penal Code is amended to read:

13516. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the investigation of sexual assault cases, including police response to, and treatment of, victims of such crimes.

(b) The course of training leading to the basic certificate issued by the commission shall, on and after July 1, 1977, include adequate

instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance on or after such date at any such course which does not comply with the requirements of this subdivision.

(c) The commission shall prepare and implement a course of training of specialists in the investigation of sexual assault cases. Officers assigned as sexual assault investigations specialists shall successfully complete such training within six months of the date such assignment was made.

(d) It is the intent of the Legislature in the enactment of this section to encourage the establishment of sex crime investigation units in police agencies throughout the state.

SEC. 5. Article 3 (commencing with Section 13836) is added to Chapter 1 of Title 6 of Part 4 of the Penal Code, to read:

Article 3. Training of Sexual Assault Investigators

13836. The Office of Criminal Justice Planning shall establish an advisory committee which shall develop a course of training for district attorneys in the investigation and prosecution of sexual assault cases and shall approve grants awarded pursuant to Section 13837. The course shall include training in the unique emotional trauma experienced by victims of sexual assault.

It is the intent of the Legislature in the enactment of this chapter to encourage the establishment of sex crime prosecution units in district attorneys' offices throughout the state.

13836.1. Such committee shall consist of 11 members. Five shall be appointed by the executive director of the Office of Criminal Justice Planning, and shall include three district attorneys or assistant or deputy district attorneys, one representative of a city police department, and one public defender or assistant or deputy public defender of a county. Six shall be public members appointed by the Commission on the Status of Women, and shall include one representative of a rape crisis center, and one medical professional experienced in dealing with sexual assault trauma victims. The committee members shall represent the points of view of diverse ethnic and language groups.

Members of the committee shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties. Staff support for the committee shall be provided by the Office of Criminal Justice Planning.

13836.2. (a) The office shall reimburse each county for the costs of salaries and transportation to the extent necessary to permit up to 10 percent of the staff of the district attorney to complete the course of training established pursuant to this chapter. The office shall prescribe the manner in which such training shall be obtained. Such training shall be offered at least once each year in both northern and southern California.

(b) The office shall seek certification from the State Bar of the course as a course which may be taken to complete the Criminal Law Specialist Certificate.

SEC. 6. Article 4 (commencing with Section 13837) is added to Chapter 1 of Title 6 of Part 4 of the Penal Code, to read:

Article 4. Rape Victim Counseling Centers

13837. The Office of Criminal Justice Planning shall provide grants to proposed and existing local rape victim counseling centers. Such centers shall maintain a 24-hour telephone counseling service for rape victims, appropriate in-person counseling and referred service during normal business hours, and maintain other standards or services which shall be determined to be appropriate by the advisory committee established pursuant to Section 13836 as grant conditions. The advisory committee shall identify the criteria to be utilized in awarding the grants provided by this chapter before any funds are allocated.

In order to be eligible for funding pursuant to this chapter, the centers shall demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources which may be used to augment any state funds appropriated for purposes of this chapter. Each center receiving funds pursuant to this chapter shall make every attempt to qualify for any available federal funding.

State funds provided to establish centers shall be utilized when possible, as determined by the advisory committee, to expand the program and shall not be expended to reduce fiscal support from other public or private sources. The centers shall maintain quarterly and final fiscal reports in a form to be prescribed by the administering agency. In granting funds, the advisory committee shall give priority to centers which are operated in close proximity to medical treatment facilities.

SEC. 7. Money appropriated by Schedule (b) (4) of Item 312 of the Budget Act of 1980 to the State Department of Social Services for rape victim counseling centers shall be appropriated to the Office of Criminal Justice Planning for that purpose.

SEC. 8. The sum of five hundred sixty-two thousand five hundred dollars ($562,500) is hereby appropriated from the General Fund to the State Controller without regard to fiscal years to be allocated as follows:

(a) The sum of one hundred fifty thousand dollars ($150,000) to the Office of Criminal Justice Planning for establishing an advisory committee and developing a training course pursuant to Section 13836 of the Penal Code and for reimbursement to specified counties pursuant to Section 13836.2 of the Penal Code.

(b) The sum of four hundred twelve thousand five hundred dollars ($412,500) to the Office of Criminal Justice Planning for grants pursuant to Section 1598.1 of the Health and Safety Code to

maintain the current level of support of such grants if there is no 1981 fiscal year Law Enforcement Assistance Administration appropriation for state and local grant assistance.

CHAPTER 918

An act to amend Section 5202 of the Unemployment Insurance Code and to add Article 3.5 (commencing with Section 11325) to Chapter 2 of Part 3 of Division 9 of and to repeal Section 11332 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 17, 1980 Filed with Secretary of State September 17, 1980]

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

SECTION 1. Section 5202 of the Unemployment Insurance Code is amended to read:

5202. The department, in cooperation with the State Department of Social Services, shall report to each regular session of the Legislature, not later than February 1 of each year, on the effectiveness of the program established under this division. The department's reports shall detail any economic and other advantages to the people of California which have resulted from the program, including the effect upon state costs, increased productivity and improved social performance by persons under the program, taxes paid by such persons, and the payment of wages as opposed to cash grants.

SEC. 2. Article 3.5 (commencing with Section 11325) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.5. Employment Preparation Program

11325. The Legislature recognizes that most employable persons who receive public assistance would prefer to be self-supporting if offered the opportunity to do so.

The Legislature further recognizes that the general public lacks confidence in the existing public assistance system because rather than eliminating dependency, the system often seems to encourage it by not providing sufficient incentives for work.

The Legislature further recognizes that public assistance programs should be reserved for those persons who are in need because of their inability to work productively due to circumstances beyond their control.

Therefore, it is the intent of the Legislature to pursue a more intensive approach to solving the employment problems of those persons who are in need of assistance because, although they are able

to work, they lack the training or experience required by employers or they lack the ability to find and retain suitable permanent employment.

Toward the achievement of this end, the Legislature intends that the provisions of this article serve to implement an integrated Employment Preparation Program to be administered by the Employment Development Department with the full cooperation of the State Department of Social Services, city and county employment and training agencies, and county welfare departments. The goal of the Employment Preparation Program is to prevent and reduce welfare dependency by assisting AFDC applicants and recipients to find jobs as quickly as possible. To attain this goal, the Employment Development Department shall utilize such services and techniques as:

(a) Providing immediate job services.

(b) Imparting self-help job search skills at the earliest possible time.

(c) Assisting in direct placement and self-placement of AFDC applicants and recipients into permanent private sector and unsubsidized employment.

(d) Developing effective linkages among all state and local employment and training agencies, especially those operating Comprehensive Employment and Training Act (CETA) programs, to ensure that AFDC applicants and recipients have maximum work and training opportunities.

11326. As used in this article:

(a) "Department" means the Employment Development Department.

(b) "Director" means the Director of Employment Development.

(c) "Program" means the Employment Preparation Program.

(d) "Local prime sponsor" means a city or county designated as a local prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973 as amended.

(e) "Exempt" participants means those AFDC applicants or recipients not required to register with the Employment Development Department pursuant to Section 11310.

(f) "Nonexempt" participants means those AFDC applicants or recipients who are required to register with the Employment Development Department pursuant to Section 11310.

(g) "Volunteers" mean those AFDC applicants or recipients who voluntarily register pursuant to subdivision (c) of Section 11310.

(h) "WIN" means the Work Incentive Program established pursuant to Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, and pursuant to Division 2 (commencing with Section 5000) of the Unemployment Insurance Code.

11327. (a) The Employment Development Department shall administer the Employment Preparation Program, which shall

provide AFDC applicants and recipients with job search assistance for employment in unsubsidized jobs, and, to the maximum extent possible, links with state and local employment and training agencies, especially those operating CETA programs, for subsidized employment and training for those persons unable to obtain unsubsidized employment within a reasonable period of time.

(b) The director shall promulgate rules and regulations to implement the program. Planning and implementation shall be commenced upon the effective date of this act, on an incremental basis. Funding and description of the first increment of this program shall be presented in the Governor's 1981–82 budget subject to the availability of funds. Expansion beyond this first increment shall be contingent upon demonstrated cost-effectiveness. To the maximum extent possible, small counties shall be phased in concurrently with large counties.

11328. In order to facilitate the implementation of the Employment Preparation Program, the director is authorized to secure any necessary waivers of federal law. Such waivers shall be for a period of time sufficient to test fully the efficacy of programs under this article in preventing or reducing welfare dependency.

11329. Participation requirements for this program shall be identical with the conditions in Section 11310. Any applicant for or recipient of aid under this chapter who is exempted from registration with the department under Section 11310 shall be entitled to participate voluntarily in the Employment Preparation Program. Nonexempt AFDC applicants and recipients, and volunteers, shall be referred to the nearest appropriate department field office to register for work, job search assistance, and employment training. Failure to register shall render the nonexempt applicant or recipient subject to the full sanctions and remedies prescribed by law.

11330. As resources permit, the department shall periodically review the status of those nonexempt participants and volunteers under this chapter for whom the services described in Section 11329 could not be provided immediately upon their registration with the department, to determine whether these services can now be provided.

11331. The department shall, for the purposes of securing or providing supportive services, including child care, transportation, job search assistance, and subsidized employment and training necessary to enable employable persons to enter the job market, enter into agreements to utilize the resources of all available state and federal employment and welfare programs, including, but not limited to, the following:

(1) Title IV C of the Social Security Act (The Work Incentive Program);

(2) Title XX of the Social Security Act;

(3) The Comprehensive Employment and Training Act;

(4) Tax incentive programs for employers intended to promote the hiring of persons receiving or who are potentially eligible to

receive public assistance benefits.

11332. (a) Notwithstanding any other provisions of state law, commencing with the 1982–83 fiscal year, the department shall establish two programs to test the feasibility of separating entirely the delivery of subsistence and employment assistance to nonexempt AFDC applicants and recipients, and volunteers, from financial assistance provided to exempt AFDC recipients who do not register with the department. One program shall be established in a county of large or medium size which is participating in the Work Incentive Program (WIN) as authorized by Sections 11300 to 11310, inclusive. One program shall be established in a small county which is not participating in the WIN program. The programs authorized under this section shall be designed in a manner which, to the maximum extent possible, complements the Centralized Delivery System authorized in Chapter 4.1 (commencing with Section 10815) of Part 2 of Division 9. The department shall, with the assistance of the State Department of Social Services and the counties, develop regulations for the implementation of this section.

(b) The pilot programs may consider using cash out of foodstamps, and issuance of Medi-Cal cards in determining subsistence benefit levels. Federal waivers may, if necessary, be sought to carry out the provisions of this subdivision.

(c) Pilot counties shall be held harmless for the following items:

(1) AFDC error rates which result from Employment Development Department administration of welfare grant payments.

(2) Overruns due to Employment Development Department administration against cost control plans which are established by the State Department of Social Services and which are binding upon the counties.

(3) Any failure in the overall administration of the pilot projects by the Employment Development Department.

(d) The programs authorized under this section shall be monitored on a continuing basis by the department and the Auditor General. No later than December 1, 1984, the Auditor General shall submit a report to the Legislature evaluating the results of the programs. The reports shall specifically address whether future total separation of payment systems between nonexempt AFDC recipients and applicants, and volunteers, and exempt AFDC recipients who do not register with the department is considered feasible and efficacious.

(e) This section shall remain in effect only until June 30, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before June 30, 1985, deletes or extends such date.

11333. The department shall submit by February 1 of each year, a report to the Legislative Analyst detailing the performance and status of this program. This annual report shall meet the requirements of Section 5202 of the Unemployment Insurance Code. The Legislative Analyst shall critique the report submitted to him by

the department and shall submit his findings to the Legislature on or before April 1 of each year. Commencing with 1982, the report shall estimate net expenditure reductions reasonably attributable to the operation of programs under this article.

11334. Commencing with fiscal year 1982–83, the Governor's Budget shall report net expenditure reductions reasonably attributable to the operation of programs under this article, and shall recommend a portion or all of such savings to be reinvested to further the intent of this act and to enhance employability services to recipients referred to programs under Sections 11329 and 11330.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 919

An act relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980.]

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

SECTION 1. The Legislature recognizes that the California Constitution requires the Legislature to undertake the reapportionment of senatorial, Assembly, Board of Equalization, and congressional districts in the year following the year in which the federal census is taken. In order to effectuate the constitutional mandate, the Legislature intends to compile all necessary information and statistics which will be helpful in accomplishing this mandate at the earliest possible time.

Section 51 of the Elections Code requires each county clerk to compile and make available to the Legislature or any appropriate committee of the Legislature such information and statistics as may be necessary for use in connection with the reapportionment of legislative districts, including, but not limited to, lists showing the election returns for each precinct in the county at the last four statewide elections held prior to reapportionment.

SEC. 2. In addition to any other relevant information and statistics which the Legislature or an appropriate committee of the Legislature may request pursuant to Section 51 of the Elections Code, each county clerk shall provide the Legislature or an appropriate legislative committee upon request of the Legislature or

such committee and by January 1, 1981, a tally of the number of voters affiliated with each of the qualified political parties who voted in each precinct at the November 4, 1980, General Election. In order to obtain such tally, the county clerk of each county may designate a member of each precinct board to tabulate at the polls the number of voters registered with each of the qualified political parties who vote in the November 4, 1980, General Election.

If the county clerk elects to obtain the statistics required pursuant to this section by designating a member of the precinct board to maintain a tally as provided above, the county clerk may reduce the compensation paid to such person by five dollars ($5) if the person fails or neglects to maintain the tally.

SEC. 3. This act shall be operative only until July 1, 1981, and as of such date is repealed.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this act may be operative at the November 4, 1980, General Election, it is necessary that this act take effect immediately.

CHAPTER 920

An act to amend Section 53978 of the Government Code, relating to service fees and charges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 18, 1980]

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

SECTION 1. Section 53978 of the Government Code is amended to read:

53978. (a) Any local agency which provides fire protection or prevention services directly, by contract with another local agency, or which provides such services pursuant to Section 25643 of this code or the Fire Protection District Law of 1961, Part 2.7 (commencing with Section 13801) of Division 12 of the Health and Safety Code, or which provides police protection services, may, by ordinance, determine and propose for adoption a special tax for fire protection and prevention provided by the local agency, or a special tax for police protection services provided by the local agency, or both of such special taxes if both such services are provided by the local agency, other than ad valorem property taxes, pursuant to this section. Such proposition shall be submitted to the voters of the affected area or zone, or of the district, and shall take effect upon

approval of two-thirds of the voters voting upon such proposition. The local agency which fixes such a special tax shall not, however, impose such tax upon a federal or state governmental agency or another local agency.

(b) The ordinance submitted to voter approval pursuant to the provisions of subdivision (a), shall specify the amount of each of such special taxes. Each of such special taxes shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the local agency to which fire protection services or police protection services are made available, for the purpose of obtaining, furnishing, operating, and maintaining fire suppression and police protection equipment or apparatus or either such service, respectively, for paying the salaries and benefits to firefighting and police protection personnel or either such personnel, respectively, and for such other necessary fire protection and prevention expenses and police protection expenses, respectively, or either such expenses of the local agency in such area, zone, or local agency to which fire protection and prevention services or police protection services, or both, are made available.

An ordinance which sets a maximum amount of the tax to be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, and which permits the local agency proposing the tax to determine the amount to be levied, annually, within the maximum amount, shall satisfy the requirements of this section. However, in no case shall the amount of the tax to be levied exceed the maximum amount established by the ordinance without the approval of the voters as prescribed in subdivision (a).

(c) The amount of each such special tax established by the legislative body, and approved by the voters of the local agency, may be varied to each parcel, improvement, or use of property based on the degree of availability of fire protection and prevention services or police protection services, respectively, in the affected area, and may restrict such charges to areas lying within one or more zones or areas established in such local agency.

(d) The legislative body may provide for the collection of the special taxes in the same manner and subject to the same penalty as, or with, other charges and taxes fixed and collected by the local agency, or by the county on behalf of the local agency. If such special taxes are collected by the county on behalf of the local agency, the county may deduct its reasonable costs incurred for such service before remittal of the balance to the local agency.

(e) The revenues from each of such special taxes shall be used for the service for which it was imposed, and for no other purpose.

(f) This section does not limit or prohibit the levy or collection or any other fee, charge, or tax, or any license or service fee or charge for fire prevention or protection services or police protection services as provided by other provisions of law.

SEC. 2. The Legislature finds and declares that the amendments made to Section 53978 of the Government Code by Section 1 of this

act are declaratory of existing law.

SEC. 3. Any ordinance adopted by a local agency, as defined by Section 53970 of the Government Code, and approved by the voters prior to the effective date of this act, pursuant to Section 53978 of the Government Code, which otherwise meets the requirements of Section 53978 of the Government Code, but which establishes a maximum amount of the tax to be levied in a manner described in the amendments to Section 53978 of the Government Code made by Section 1 of this act, shall be deemed to satisfy the requirements of Section 53978 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to resolve ambiguities in existing law relative to the levying of fees and service charges by local agencies and the levy of special taxes for police protection or for fire protection and prevention services, as soon as possible, and to ensure that certain ordinances adopted by local agencies levying such taxes become effective without delay, it is necessary that this act take effect immediately.

CHAPTER 921

An act to amend Section 26569.9 of the Health and Safety Code, relating to food.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980]

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

SECTION 1. Section 26569.9 of the Health and Safety Code is amended to read:

26569.9. No chopped or ground beef or hamburger which is offered for sale in any retail food production and marketing establishment or frozen food locker plant shall be advertised, labeled, or otherwise held out in any manner to describe or suggest its quality or relative leanness or fat content unless the label, advertisement, or other representation accurately discloses the maximum fat content thereof by one of the following designations:

(a) Does not exceed 30 percent fat.

(b) Does not exceed 22 percent fat.

(c) Does not exceed 15 percent fat.

No designation such as, but not limited to, "lean," "super lean," "premium," "deluxe" or similar terms descriptive of quality, leanness, or fat content shall be included on any such label unless the label also contains the fat-weight designation specified in subdivision

(a), (b), or (c). However, as an alternative to including such fat-weight designation on the label, the fat-weight designation required by this section may be disclosed by means of a sign placed immediately adjacent to the counter on which the chopped or ground beef or hamburger is displayed. Such a sign shall be within plain view of prospective purchasers and shall display the appropriate designation specified in subdivision (a), (b), or (c) in boldface print.

Chopped or ground beef or hamburger which is processed from primal cuts of round or sirloin shall not be required to disclose the maximum fat content if there is no reference to leanness or other quality designation relating to fat content other than the primal cut from which the product is derived; provided, in the case of ground beef or hamburger processed from the primal cut of chuck when the primal cut designated is being used, the fat content of the chopped ground beef or hamburger shall not exceed 26 percent.

All labeling and advertising for chopped or ground beef or hamburger processed from the primal cut chuck shall disclose the maximum fat weight designated as, "Does not exceed 26 percent fat."

It is unlawful and constitutes misbranding for any person to sell or offer for sale in a retail food production and marketing establishment or frozen food locker plant any chopped or ground beef or hamburger which is labeled in violation of this section.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 922

An act to amend Section 34500 of, and to add Article 4 (commencing with Section 2450) to Chapter 2 of Division 2 of, the Vehicle Code, relating to highways.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 18, 1980.]

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

SECTION 1. Article 4 (commencing with Section 2450) is added to Chapter 2 of Division 2 of the Vehicle Code, to read:

Article 4. Highway Spill Containment and Abatement of Hazardous Substances

2450. This article shall be known and may be cited as the Hazardous Substances Highway Spill Containment and Abatement Act.

2451. The Legislature finds and declares that a statewide program for the management of hazardous substances highway spills, under the jurisdiction of the California Highway Patrol, is necessary to protect the public health and environment.

2452. "Hazardous substance" means any hazardous material defined pursuant to Section 2402.7, any hazardous waste defined pursuant to Section 25117 of the Health and Safety Code, and any toxic substance defined pursuant to Section 28745 of the Health and Safety Code.

2453. The California Highway Patrol shall serve as statewide information, assistance, and notification coordinator for all hazardous substances spill incidents occurring on highways within the State of California. The California Highway Patrol shall establish a single notification mechanism to serve as a central focus point for a hazardous substances spill response system. To assure timely notification of emergency personnel, the notification mechanism established pursuant to this section shall complement and not conflict with the system established pursuant to subdivision (b) of Section 8574.8 of the Government Code.

2454. The authority for the management of the scene of an on-highway hazardous substance spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the spill occurs.

SEC. 2. Section 34500 of the Vehicle Code is amended to read:

34500. The Department of the California Highway Patrol shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles.

(b) Truck tractors.

(c) Buses and schoolbuses.

(d) Trailers, semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with motortrucks of three or more axles, truck tractors, buses, or schoolbuses.

(e) Any combination of a two-axle truck and any vehicle or vehicles set forth in subdivision (d) that exceeds 40 feet in length when coupled together.

(f) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(g) Trailer coaches which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

(h) Any motortruck regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and logbooks of drivers.

CHAPTER 923

An act to amend Section 4012.6 of the Welfare and Institutions Code, relating to mentally disordered persons.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980]

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

SECTION 1. Section 4012.6 of the Welfare and Institutions Code is amended to read:

4012.6. The department may directly, or through the county, provide protective social services for the care of mentally disordered patients released from state hospitals or to prevent the unnecessary admission of mentally disordered persons to hospitals at public expense or to facilitate the release of mentally disordered patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if provision for such services is made in the county Short-Doyle plan for the county.

The department, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home for mentally disordered persons described in, and subject to the request and plan conditions of, the immediately preceding paragraph. The monthly rate for such private home care shall be set by the department at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section.

For all such persons without public or private financial resources who are placed in private homes at state expense, the department may provide from local assistance budget funds, at a rate to be determined by the Secretary of the Health and Welfare Agency, moneys necessary to furnish clothing and to meet incidental living expenses. The department or any county may provide interim funding to enable persons to live independently, including, but not limited to, payments for rental or lease deposits, required prepaid rent and utility deposits.

Any funds expended for the care of persons in a private home, including costs of administration and staffing and including money necessary to furnish clothing and to meet incidental living expenses, at the request of the local director of a mental health service pursuant to this section shall be expended by the department only if the department and the local mental health service enter a contract in accordance with the Short-Doyle Act (Part 2 (commencing with Section 5600), Division 5) under which the

county shall reimburse the department for 10 percent of the amount expended by the department, exclusive of such portion of the cost as is provided by the federal government.

The provision for such 10 percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5.

The department may provide services pursuant to this section directly or through contract with public or private entities.

The department, may directly, or through the county, provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, for judicially committed mentally disordered patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the department for that purpose or for the support of patients in state hospitals for the mentally disordered.

In facilitating the release of mentally disordered patients or persons who have been mentally disordered patients to suitably licensed facilities, the department shall provide the licensee with information concerning the previous conduct of the patients which would be relevant in determining the suitability of the particular facility for the patient and the suitability of placement of such patient in such facility. The release of this information shall be consistent with the confidentiality guidelines under the Lanterman-Petris-Short Act and the Short-Doyle Act.

CHAPTER 924

An act to amend Section 5328.1 of the Welfare and Institutions Code, relating to mental health services.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980]

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

SECTION 1. Section 5328.1 of the Welfare and Institutions Code is amended to read:

5328.1. Upon request of a member of the family of a patient, or other person designated by the patient, a public or private treatment facility shall give such family member or the designee notification of the patient's presence in the facility, the transfer, the diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, the progress of the patient, and the serious illness of the patient, if, after notification of the patient that such information is requested, the patient authorizes such disclosure. If,

when initially informed of the request for notification, the patient is unable to authorize the release of such information, notation of the attempt shall be made into the patient's treatment record, and daily efforts shall be made to secure the patient's consent or refusal of such authorization. However, if a request for information is made by the spouse, parent, child, or sibling of the patient and the patient is unable to authorize the release of such information, such requestor shall be given notification of the patient's presence in the facility, except to the extent prohibited by federal law. Upon request of a member of the family of a patient or the designee, the facility shall notify such family member or the designee of the release or death of the patient. Nothing in this section shall be construed to require photocopying of the patient's medical records in order to satisfy its provisions.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 925

An act to amend Section 2924b of the Civil Code, to amend Sections 16184, 16185, 16200, and 16201 of the Government Code, and to amend Sections 20505, 20585, 20586, 20601, 20602, 20621, 20630, 20630.5, 20640.4, 20640.9, 20641, 20643, 20645, and 20645.6 of, and to add Section 20645.1 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980]

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

SECTION 1. Section 2924b of the Civil Code is amended to read:

2924b. (1) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until such notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of such deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of any such notice of default and

of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the same is recorded or the recorder's number and shall be in substantially the following form:

"In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded _____, 19__, in Book _____ page _____ records of _____ County, (or filed for record with recorder's serial number _____, _____ County) California, executed by _____ as trustor (or mortgagor) in which _____, is named as beneficiary (or mortgagee) and _____ as trustee be mailed to _____ at _____.

Name Address

Signature _____"

Upon the filing for record of such request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

(2) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:

(a) Within 10 days following recordation of such notice of default, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(b) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(c) As used in subdivisions (a) and (b), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary; however, the trustee shall incur no liability for failing to send any notice to such last address unless the trustee has actual knowledge of it.

(3) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:

(a) Within one month following recordation of such notice of default, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (b) of subdivision (3), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of such estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided such instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided such instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of such instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.

(b) The persons to whom notice shall be mailed under this subdivision are:

(A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.

(B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to such deed of trust or mortgage being foreclosed.

(C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B) above, as of the recording date of the notice of default.

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to such deed of trust or mortgage being foreclosed.

(E) The successor in interest to such vendee or lessee described in subparagraph (D) above, as of the recording date of the notice of default.

(F) The Office of the State Controller, Sacramento, California, where, as of the recording date of the notice of default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the notice of default applies.

(c) At least 20 days before the date of sale, deposit or cause to be

deposited in the United States mail, an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in subdivisions (a) and (b).

(d) The mailing of notices in the manner set forth in subdivision (a) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate such notice to such entitled person from the fact that the mailing address used by the county recorder is the address of such attorney, agent, or employee.

(4) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of such person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each such person at the same time and in the same manner required as though a separate request therefor had been filed by each of such persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such request but no address of such person is given therein and if no request for special notice by such trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, such publication to commence within 10 days after the filing of the notice of default. In lieu of such publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within such 10 days or at any time before publication is completed.

(5) No request for copy of any notice filed for record pursuant to this section nor any statement or allegation in any such request nor any record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.

SEC. 1.5. Section 16184 of the Government Code is amended to read:

16184. The Controller shall reduce the amount of the obligation secured by the lien against the real property by the amount of any payments received for that purpose and by notification of any amounts paid by the Franchise Tax Board pursuant to Section 20564 or by any amounts authorized pursuant to subdivision (f) of Section 20621 of the Revenue and Taxation Code. The Controller shall also increase the amount of the obligation secured by such lien by the

amount of any subsequent payments made pursuant to Section 16180 with respect to the real property and to reflect the accumulation of interest. All such increases and decreases shall be entered in the record described in Section 16181.

SEC. 2. Section 16185 of the Government Code is amended to read:

16185. Notwithstanding the provisions of Section 16182, provided the interests of the state are adequately protected, the Controller may subordinate the lien for postponed real property taxes where the Controller determines subordination is appropriate.

A recital in a certificate of subordination, executed by the Controller, recorded in the county wherein the notice of lien for postponed property taxes has been recorded, subordinating such lien to specifically identified liens or encumbrances shall be conclusive in favor of all persons or entities thereafter dealing with the real property.

SEC. 3. Section 16200 of the Government Code is amended to read:

16200. In the event that the Controller receives the notice described in Section 16187 of this code or Section 3375 of the Revenue and Taxation Code, the Controller may take any of the following actions which will best serve the interests of the state:

(a) Out of the amount appropriated by Section 16100, the Controller may pay the amount of any delinquent taxes, interest, or penalties on the property or the amount of any other obligation secured by a lien or encumbrance on the property and add such amount to the amount secured by the lien on such property provided for in Article 1 (commencing with Section 16180) of this chapter.

(b) Notify by United States mail the tax collector or other party that such notice has been received and that the Controller must be given at least 20 days prior notice of the date that the property will be sold at auction. If the Controller elects to proceed under this subdivision, the Controller may use funds appropriated by Section 16100 to bid on the property at the auction up to the amount secured by the state's lien on the property and any lien on such property having priority over the state's lien. All additional amounts paid pursuant to this subdivision shall be added to the amount secured by the lien on such property provided for in Article 1 (commencing with Section 16180) of this chapter.

(c) Acknowledge by United States mail that the notice required by Section 16187 of this code or Section 3375 of the Revenue and Taxation Code has been received.

SEC. 4. Section 16201 of the Government Code is amended to read:

16201. If the Controller, by reason of the notice described in Section 3375 of the Revenue and Taxation Code or by reason of information from any other source, determines that all amounts owing under Article 1 (commencing with Section 16180) of this chapter have become due and payable pursuant to Section 16190, the

Controller may, in addition to the options provided in Section 16200, take any of the following actions which will best serve the interest of the state:

(a) The Controller may demand payment of such amount from any person liable therefor.

(b) If the Controller has reasonable cause to believe that sale of the property will not satisfy the amount secured by the state's lien, the Controller may file a claim against the estate of any decedent whose property is liable for such amount or the Controller may request the Attorney General to bring an action under Section 2931c of the Civil Code to recover the amount of the state's lien.

(c) The Controller may direct the Department of General Services to sell such property pursuant to Chapter 4.5 (commencing with Section 14735) of Part 5.5 of Division 3 of this title.

SEC. 4.5. *Section 20505 of the Revenue and Taxation Code is* amended to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was either (1) 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625) and Chapter 3.5 (commencing with Section 20640) was a member of the household and either an owner-occupant, or a tenant stockholder occupant, or a possessory interest holder occupant, as the case may be, of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was 62 years of age or older by December 31 of the fiscal year for which postponement is claimed provided, for purposes of eligibility for postponement of taxes for the 1977–78 fiscal year, an individual must be 62 years of age or older by March 15, 1978.

(c) Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which such fiscal year begins, and the claimant sells such dwelling and buys a new residential dwelling in this state on or before December 31 of the following fiscal year and the new dwelling is the claimant's principal place of residence, then in such event, the claimant shall be deemed to be a qualified claimant for the purpose of this section.

SEC. 5. Section 20585 of the Revenue and Taxation Code is amended to read:

20585. Postponement shall not be allowed under this chapter or Chapter 3 (commencing with Section 20625) or Chapter 3.5 (commencing with Section 20640) if household income exceeds either of the following amounts:

(a) For the 1976 calendar year or for an approved fiscal year commencing within such calendar year, household income shall not exceed twenty thousand dollars ($20,000).

(b) For all subsequent calendar years and approved fiscal years, postponement shall not be allowed under this chapter, Chapter 3 (commencing with Section 20625) or Chapter 3.5 (commencing with Section 20640) if household income exceeds an amount determined as follows:

(1) On or before March 1 of each year, the California Department of Industrial Relations shall transmit to the Controller the percentages of increase in the California Consumer Price Index for all Urban Consumers and in the California Consumer Price Index for Urban Wage Earners and Clerical Workers of December of the prior calendar year over December of the preceding calendar year.

(2) The Controller shall compute an inflation adjustment factor by adding 100 percent to the larger of the California Consumer Price Index percentage increases furnished pursuant to paragraph (1).

(3) In 1978, the Franchise Tax Board shall multiply twenty thousand dollars ($20,000) by the inflation adjustment factor to determine the maximum allowable gross household income for the 1977 calendar year and for approved fiscal years commencing within such years. In 1979 and subsequent calendar years, the Controller shall multiply the maximum allowable household income determined for the preceding calendar year by the inflation adjustment factor to determine the maximum allowable household income for the applicable calendar year and approved fiscal years commencing within such calendar year. In determining the maximum allowable household income pursuant to this section, the Controller shall round such amount to the nearest hundred dollar amount.

SEC. 6. Section 20586 of the Revenue and Taxation Code is amended to read:

20586. For the purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625) and Chapter 3.5 (commencing with Section 20640), only one claimant per household each year shall be entitled to postponement. When two or more individuals in a household are qualified as claimants, they may determine who the claimant shall be. Such decision is irrevocable. If the individuals are unable to agree, the matter shall be determined by the Controller and his decision shall be final.

SEC. 7. Section 20601 of the Revenue and Taxation Code is amended to read:

20601. Subject to the limitations provided in this chapter, a

claimant may file with the Controller, pursuant to Article 3 (commencing with Section 20621) of this chapter, a claim for postponement from the State of California of a sum equal to, but not exceeding, the amount of property taxes, as defined in Section 20584, due on the residential dwelling for the fiscal year for which the claim is made. Claims for the 1977–78 fiscal year only shall also constitute a claim for any amounts described in subparagraph (B) of paragraph (4) of subdivision (b) of Section 20583.

SEC. 8. Section 20602 of the Revenue and Taxation Code is amended to read:

20602. (a) Upon approval of a claim described in Section 20601, the Controller shall issue to the claimant a certificate of eligibility, which shall consist of two parts, both of which shall contain the name of the claimant, the address of the residential dwelling on which the claimant has applied for property tax postponement, and such other information and in such form as the Controller shall prescribe. In the event that such residential dwelling is located in a chartered city which levies and collects its own taxes, the Controller shall issue a duplicate certificate of eligibility to pay all or any part of the property taxes appearing on such city's tax bill. Each part of a certificate of eligibility shall be payable in an unspecified amount and shall contain statements to identify the property tax installment to which it may be applied.

(b) The Controller shall prescribe the form of the certificates of eligibility to pay all delinquent taxes and assessments authorized by this chapter.

Upon or accompanying each certificate shall be a brief statement explaining that (1) those taxpayers whose property taxes are paid by a lender via an impound, trust or other similar account should enter the total amount of each installment on their respective certificates and mail both certificates to the tax collector at the same time, and (2) those taxpayers will receive a refund check from the county or city in the amount they entered on each certificate, within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received by the tax collector, whichever is later, and (3) the intent of this procedure is to make sure the taxes on the claimant's dwelling are not paid twice.

(c) When a certificate of eligibility has been signed by the claimant, his spouse, or authorized agent and countersigned by the person authorized to collect property taxes or assessments for the local agency, such certificate shall constitute a written promise on the part of the State of California to pay the sum of money specified therein and such signed and countersigned certificate shall be deemed a negotiable instrument for the sole purpose of the payment of property taxes owing in the name of the claimant or his spouse for purposes of all laws of this state.

(d) A certificate of eligibility shall be valid for the duration prescribed thereon by the Controller.

(e) The Controller shall issue certificates of eligibility claims

approved on or before September 30 between October 15 and November 1 of the fiscal year for which postponement is claimed. Certificates for claims approved after September 30 shall be issued at such times as the Controller determines will best implement the purpose of this chapter.

(f) The Controller shall prescribe the manner in which a claimant eligible under this chapter, who has been issued a certificate of eligibility which is lost or destroyed prior to being filed with the local agency pursuant to subdivision (b) may obtain a duplicate copy of said certificate as a replacement. (Under such conditions as may be prescribed by the Controller, a duplicate copy shall be deemed as having been filed with the local agency as of the date a claimant requests issuance of such duplicate copy.)

SEC. 9. Section 20621 of the Revenue and Taxation Code is amended to read:

20621. Each claimant applying for postponement under Article 2 (commencing with Section 20601) of this chapter shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain:

(a) Evidence acceptable to the Controller that the person was a "senior citizen claimant."

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in such manner as the Controller may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) Documentation evidencing the current existence of any abstract of judgment, federal tax lien, or state tax lien filed or recorded against the applicant, and any recorded mortgage, or deed of trust which affect the subject residential dwelling, for the purpose of determining that the claimant possesses a 20 percent equity in the subject residential dwelling as required by paragraph (1) of subdivision (b) of Section 20583.

Actual costs, not in excess of fifty dollars ($50), paid by the claimant to obtain the documentation shall, in the event the Controller issues a certificate of eligibility, reduce the amount of the lien for such year, but not the face amount of the payment prescribed in Section 16180.

(g) Other information required by the State Controller to establish eligibility.

SEC. 10. Section 20630 of the Revenue and Taxation Code is amended to read:

20630. (a) A claimant may file with the Controller, a claim for postponement from the State of California of a sum equal to, but not exceeding the amount of property taxes (as defined in Section 20629)

for the fiscal year for which the claim is made.

(b) Upon verification of the eligibility requirements set forth in Section 20630.5, the Controller shall mail the claimant a Notice of Election to Postpone which shall be in the form and contain such information as the Controller may prescribe. Accompanying the notice shall be a statement explaining that in order for the claimant to postpone all or part of the property taxes, the Notice of Election to Postpone must be mailed to the Controller with the following:

(1) A statement signed by an authorized officer of the cooperative housing corporation indicating the amount of the claimant's proportionate share of property taxes and the method used to compute such amount.

(2) A recognition agreement signed by the claimant and executed by an officer of the corporation which acknowledges the assignment of the proprietary lease and the pledging of the claimant's shares in the corporation as security for postponement, and sets forth the rights and duties of the state, the corporation and the claimant with respect to such stock and the proprietary lease. The recognition agreement shall be in such form and contain such provisions as the Controller shall prescribe.

(3) Any other additional security interest, created and perfected with respect to the rights of third persons in the manner provided by law for such type of security interest, which the Controller deems necessary to protect the interest of the state with regard to the repayment of postponed amounts by the claimant or a deceased claimant's estate.

(c) When the Controller approves the Notice of Election to Postpone, a warrant in the amount of taxes the claimant wishes to postpone shall be mailed to the claimant. All Notices of Election to Postpone shall be mailed to the Controller no later than June 30 of the fiscal year for which postponement is claimed.

SEC. 11. Section 20630.5 of the Revenue and Taxation Code is amended to read:

20630.5. Claims made under this chapter shall be filed with the Controller after May 15 of the calendar year in which the fiscal year for which postponement is claimed begins, and on or before December 31 of such fiscal year. The claim shall be on a form supplied by the Controller and shall contain:

(a) Evidence acceptable to the Controller that the individual was an eligible claimant,

(b) A statement showing the household income for the period set forth in subdivision (b) of Section 20503,

(c) A statement describing the residential dwelling,

(d) Any other information necessary for the Controller to determine eligibility under this chapter.

SEC. 12. Section 20640.4 of the Revenue and Taxation Code is amended to read:

20640.4. (a) Subject to the limitations provided in Chapter 1 (commencing with Section 20501), Chapter 2 (commencing with

Section 20581), or this chapter, a claimant may file with the Controller, a claim for postponement of a sum equal to, but not exceeding the amount of property taxes, for the fiscal year for which the claim is made.

(b) Upon verification of the eligibility requirements set forth in Section 20640.9 the Controller shall mail the claimant a Notice of Election to Postpone which shall be in the form and contain such information as the Controller may prescribe. Accompanying the notice shall be a statement explaining that in order for the claimant to postpone all or part of the property taxes, the Notice of Election to Postpone must be mailed to the Controller with a copy of the instrument creating the possessory interest, said copy to be certified by the county recorder of the county in which such real property is located. Where a memorandum of lease has been recorded in lieu of such instrument, a certified copy of said memorandum shall accompany the copy of the instrument creating the possessory interest.

(c) (1) Except as provided in this section, any possessory interest or improvement on which property taxes are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area are delinquent at the time the application for postponement under this chapter is made shall not be eligible for postponement.

(2) For 1978–79 and thereafter, any taxes or assessments which became delinquent after the claimant was 62 and before a lien is established pursuant to Section 16182 of the Government Code shall not disqualify an otherwise eligible claimant for postponement under this chapter. An application to postpone taxes for 1978–79 or thereafter also constitutes an application for postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code.

(d) The Controller shall mail to claimant for due execution the appropriate security instrument for claimant's form of lease, including the consent to assignment required by Section 20640.5 (b).

SEC. 13. Section 20640.9 of the Revenue and Taxation Code is amended to read:

20640.9. Each claimant applying for postponement under this chapter shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain:

(a) Evidence acceptable to the Controller that the person was a "senior citizen claimant."

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in such manner as the Controller may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) Other information required by the State Controller to establish eligibility.

SEC. 14. Section 20641 of the Revenue and Taxation Code is amended to read:

20641. Forms filed pursuant to this part shall not be under oath but shall contain, or be verified by, a written declaration that they are made under the penalty of perjury. All forms filed pursuant to Chapter 1 (commencing with Section 20501) shall require such information as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board. The Franchise Tax Board shall prepare blank forms for the claimant and shall distribute them throughout the state and furnish them upon application. All forms filed pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), or Chapter 3.5 (commencing with Section 20640), shall require such information as the State Controller may from time to time prescribe, shall be filed with the Controller, and the Controller shall prepare such blank forms for the claimant and shall distribute them throughout the state and furnish them upon application.

SEC. 15. Section 20643 of the Revenue and Taxation Code is amended to read:

20643. If any claimant fails or refuses to furnish any information requested in writing by the Franchise Tax Board, pursuant to this part, Chapter 1 (commencing with Section 20501), or by the State Controller, pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), or Chapter 3.5 (commencing with Section 20640) or files a fraudulent claim, the assistance or postponement authorized by this part shall be disallowed.

SEC. 16. Section 20645 of the Revenue and Taxation Code is amended to read:

20645. If the Franchise Tax Board determines that assistance has been erroneously granted under this part, or if a claimant is aggrieved by the denial in whole or in part for assistance, then the provisions in Chapters 17 (commencing with Section 18401), 18 (commencing with Section 18551), 19 (commencing with Section 18801), and 20 (commencing with Section 19051) of Part 10 shall apply, as if the amount in controversy was a tax, unless the context indicates otherwise. For the purposes of Chapter 21 (commencing with Section 19251) of Part 10 (relating to disclosure of information), a claim filed pursuant to this part shall be deemed a tax return and disclosure of information set forth therein is prohibited unless

required for administrative purposes by the Franchise Tax Board or the Controller.

SEC. 16.5. Section 20645.1 is added to the Revenue and Taxation Code, to read:

20645.1. If the Controller determines that postponement has been erroneously granted under this part, or if a claimant is aggrieved by the denial in whole or in part for postponement, the claimant shall have the right to appeal to the Controller or his designee under the appeal procedures established by the Controller's office. For the purpose of this section, disclosure of information relating to an appeal by a claimant is prohibited unless required for administrative purposes by the Controller.

SEC. 17. Section 20645.6 of the Revenue and Taxation Code is amended to read:

20645.6. If the Controller denies a postponement claim under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), or Chapter 3.5 (commencing with Section 20640), and such denial is reversed after appeal of the State Board of Equalization, the Controller shall issue a warrant to the claimant, if the taxes for the fiscal year have been paid, for the amount of such taxes. If the taxes for the fiscal year are delinquent, any resulting penalties or interest shall be canceled.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the Controller to assume the duties of determining eligibility for 1980–81 tax postponement claims, it is necessary for this act to take effect immediately.

CHAPTER 926

An act to amend Sections 12981 and 14012 of, to add Section 14011.5 to, and to add and repeal Section 29247 of, the Food and Agricultural Code, relating to pest control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980.]

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

SECTION 1. Section 12981 of the Food and Agricultural Code is amended to read:

12981. The director shall adopt regulations to carry out the provisions of this article. Such regulations shall include, but are not limited to, all of the following subjects:

(a) Restricting worker reentry into areas treated with pesticides

determined by the director to be hazardous to worker safety by using either or both of the following:

(1) Time limits.

(2) Pesticide residue levels on treated plant parts determined by scientific analysis to not be a significant factor in cholinesterase depression or other health effects.

When the director has adopted regulations pursuant to both paragraphs (1) and (2), the person in control of the area treated with the pesticide shall have the option of following regulations adopted pursuant to either paragraph (1) or (2). If the person in control of the area treated with the pesticide chooses to follow regulations adopted pursuant to paragraph (2), the director may establish and charge the person a fee necessary to cover any costs of analysis or costs incurred by the director or commissioner in carrying out regulations adopted pursuant to paragraph (2). The regulations shall include a procedure for the collection of the fee, and the fee shall not exceed actual cost.

(b) Handling of pesticides.

(c) Hand washing facilities.

(d) Farm storage and commercial warehousing of pesticides.

(e) Protective devices, including, but not limited to, respirators and eyeglasses.

(f) Posting, in English and Spanish, of fields, areas, adjacent areas or fields, or storage areas.

The State Department of Health Services shall participate in the development of any regulations adopted pursuant to this article. Such regulations that relate to health effects shall be based upon the recommendations of the State Department of Health Services. The original written recommendations of the State Department of Health Services, any subsequent revisions of those recommendations, and the supporting evidence and data upon which the recommendations were based shall be made available upon request to any person.

SEC. 2. Section 14011.5 is added to the Food and Agricultural Code, to read:

14011.5. Except as may be provided in regulations adopted by the director, a pesticide use report shall be submitted to the commissioner, on a form prescribed by the director, within seven days after each use of a restricted material.

SEC. 3. Section 14012 of the Food and Agricultural Code is amended to read:

14012. (a) Any person, who is required to register economic poisons under Article 4 (commencing with Section 12811) of Chapter 2, and who sells or transfers any restricted material, shall keep accurate records of the amount and type of material involved in every sale or transfer of any restricted material. Such records shall be open during ordinary business hours to the inspection of the director.

(b) Each commissioner shall submit to the director a copy of each

pesticide use report received pursuant to Section 14011.5, and any other relevant information the director may require. Copies of such reports from the commissioners shall be rendered to the director within one calendar month after they are received.

The contents of these reports shall be summarized quarterly by the director as to the type of material and amounts, and such summaries shall be made a public record. The director may publish or distribute such summaries.

SEC. 4. Section 29247 is added to the Food and Agricultural Code, to read:

29247. Any pesticide applicator who experiences any loss because of a beekeeper's failure to request notification of a pesticide application pursuant to Section 29121 or pursuant to any department rule or regulation, or who experiences any loss because of a beekeeper's failure to register bees pursuant to Section 29241 or 29242, may bring an action for the recovery of damages against such beekeeper.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 6. The Director of Food and Agriculture shall report to the Legislature regarding the Department of Food and Agriculture's bee management program conducted pursuant to Chapter 1 (commencing with Section 29001) of Division 13 of the Food and Agricultural Code on or before January 1, 1982, and on or before January 1, 1983.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the provisions of the act to be applicable during the current growing season, it is necessary that this act take effect immediately.

CHAPTER 927

An act to amend Section 1158 of, and to add Article 1.5 (commencing with Section 470) to Chapter 1 of Part 2 of Division 1 of, the Health and Safety Code, relating to county health emergencies.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 18, 1980.]

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

SECTION 1. Section 1158 of the Health and Safety Code is amended to read:

1158. In the event a health emergency is declared by the board of supervisors in a county or by a local health district board, the local health officer, or in the event a county health emergency is declared by the county health officer pursuant to Section 471, the local health officer, shall have supervision and control over all environmental health and sanitation programs and personnel employed by the county or district during such state of emergency.

SEC. 2. Article 1.5 (commencing with Section 470) is added to Chapter 1 of Part 2 of Division 1 of the Health and Safety Code, to read:

Article 1.5. County Health Emergencies

470. As used in this article:

(a) "Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do any of the following:

(1) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(b) "Waste" means either of the following:

(1) Any material for which no use or reuse is intended and which is to be discarded.

(2) Any material which spills, escapes, or is released from any manufacturing, industrial, commercial, or other plant, facility, or process, or which escapes or is released during the transporting or transferring from one place to another, or during the pumping, processing, storing, or packaging of any material in, to, or from such a plant, facility, or process, or which enters or may enter an uncontained air space or a surface water course which is not totally contained on the contiguous property of such plant, facility, or process, or which enters, or may enter, the groundwater underlying

such plant, facility, or process.

471. Whenever a release, spill, escape, or entry of waste occurs as described in subdivision (b) of Section 470, and the State Director of Health Services or the local health officer reasonably determines such waste is a hazardous waste, or may become a hazardous waste because of a combination or reaction with other substances or materials, and the director or local health officer reasonably determines that such release or escape is an immediate threat to the public health, the director may declare a health emergency and the local health officer may declare a county health emergency in the county or any area thereof affected by such threat to the public health. Whenever a local health emergency is declared by a local health officer pursuant to this section, the local health emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the board of supervisors. The board of supervisors shall review, at least every 14 days until such local health emergency is terminated, the need for continuing the local health emergency and shall proclaim the termination of such local health emergency at the earliest possible date that conditions warrant the termination.

472. (a) After the declaration of a health emergency or a county health emergency pursuant to Section 471, the State Director of Health Services or local health officer may do any or all of the following:

(1) Require any information known to the person or organization as the director or local health officer shall specify relating to the properties, reactions, and identity of the material which has been released, spilled, or escaped to be furnished, under penalty of perjury, by the person, company, corporation, or other organization which had custody of such material, and, if the material is being transferred or transported, from any person, company, corporation, or other organization which caused such material to be transferred or transported. Such information shall be furnished to the director or local health officer upon their request in sufficient detail, as determined by the director or local health officer, to take any action necessary to abate the health emergency or county health emergency or protect the health of persons in the county, or any area thereof, who are, or may be affected. However, the burden, including costs, of furnishing such information shall bear a reasonable relationship to the need for such information and the benefits to be obtained therefrom.

(2) Provide such information, or any necessary portions thereof, or any other necessary information available to the director or local health officer to state or local agencies responding to the health emergency or county health emergency or to medical and other professional personnel treating victims of the local health emergency.

(3) Sample, analyze, or otherwise determine the identifying and other technical information relating to the health emergency or

county health emergency as is necessary to respond to or abate the county health emergency and protect the public health.

(b) The provisions of this section do not limit or abridge any of the powers or duties granted to the State Water Resources Control Board and to each regional water quality control board by Division 7 (commencing with Section 13000) of the Water Code. The provisions of this section also do not limit or abridge the powers or duties granted to the State Air Resources Board or to any air pollution control district by Division 26 (commencing with Section 39000).

The provisions of this section do not limit or abridge any of the powers or duties granted to the Director of Food and Agriculture or to any county agricultural commissioner by Division 6 (commencing with Section 11401) or by Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

473. When requested by the person furnishing the information furnished pursuant to Section 472, the portions of such information which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in abatement of the health emergency or county health emergency and in judicial review or enforcement proceedings involving the person furnishing the information.

474. Any person failing or refusing to furnish technical, toxicological, or other information required pursuant to Section 472, or falsifying any information provided therein is guilty of a misdemeanor and is also subject to any other criminal or civil penalties provided by statute.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 928

An act to amend Section 87201 of the Government Code, relating to fair political practices.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 18, 1980]

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

SECTION 1. Section 87201 of the Government Code is amended to read:

87201. Every candidate for an office specified in Section 87200 shall file no later than the final filing date of a declaration of candidacy, a statement disclosing his or her investments and his or her interests in real property.

Such statement shall not be required if the candidate has filed, within 60 days prior to the filing of his or her declaration of candidacy, a statement for the same jurisdiction pursuant to Section 87202 or 87203.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 929

An act to amend Section 8620 of the Business and Professions Code, relating to structural pest control, and making an appropriation therefor.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980.]

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

SECTION 1. Section 8620 of the Business and Professions Code is amended to read:

8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any person acting as, or making application for a license as, an operator or field representative.

After hearing, the board may temporarily suspend or permanently revoke a license issued under the provisions of this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board shall have the authority to assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In such a case the board may impose the suspension or revocation. The board may also, in lieu of a

suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any such expression of preference.

(b) The civil penalty shall not be more than two thousand dollars ($2,000) for an actual suspension of one to 19 days.

(c) The civil penalty shall not be more than five thousand dollars ($5,000) for an actual suspension of 20 to 45 days.

(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.

(e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

In any order of suspension or revocation the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

CHAPTER 930

An act to add Article 12 (commencing with Section 49570) to Chapter 9 of Part 27 of the Education Code, and to add Section 103.5 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 18, 1980]

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

SECTION 1. Article 12 (commencing with Section 49570) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 12. National School Lunch Act

49570. Each school district, county superintendent of schools, and other public or private entity that participates in programs under the National School Lunch Act, as amended, and as prescribed by Chapter 13 (commencing with Section 1751) of Title 42 of the United States Code, may, if consistent with federal law, offer whole milk, in addition to other kinds of milk, if federal regulations require a lunch eligible for federal cash reimbursement under the act to contain unflavored, fluid lowfat milk, skim milk, or buttermilk.

SEC. 2. Section 103.5 is added to the Food and Agricultural Code, to read:

103.5. The director may appoint a deputy who shall be exempt from civil service and who shall serve until December 31, 1983, at which time the position shall terminate.

CHAPTER 931

An act to add Section 701.3 to the Fish and Game Code, relating to administration of the Department of Fish and Game.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 18, 1980.]

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

SECTION 1. Section 701.3 is added to the Fish and Game Code, to read:

701.3. There shall be one deputy director of the department who shall be a civil executive officer and shall be appointed by the Governor and serve at the pleasure of the Governor. The compensation of the deputy director shall be fixed by the director pursuant to law. The deputy director shall have such duties as shall be assigned, from time to time, by the director, and shall be responsible to the director for the performance thereof.

CHAPTER 932

An act to add and repeal Section 14104.4 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 18, 1980.]

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

SECTION 1. Section 14104.4 is added to the Welfare and Institutions Code, to read:

14104.4. Pursuant to the contract for fiscal intermediary services awarded by the State Department of Health Services on August 14, 1978, the director shall exercise the authority to require the fiscal intermediary therein to provide the Controller, no later than 10 a.m. on each Monday, with the exception of legal holidays, in which case by 10 a.m. of the next working day, with the documentation necessary to enable the Controller to reimburse providers of services to Medi-Cal beneficiaries. The Controller shall, in an expeditious and timely manner, process and have available payment to the providers.

SEC. 2. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into effect immediately. The facts constituting such necessity are:

In order for Medi-Cal beneficiaries to receive adequate care, Medi-Cal providers must be assured of prompt payment for their services. The immediate enactment of this measure will provide for a more prompt and efficient reimbursement system.

SEC. 3. This act shall remain in effect for one year following the date when the processing of claims of physician providers is begun pursuant to the fiscal intermediary contract of August 14, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

CHAPTER 933

An act to amend Section 1241 of, to add Sections 100.5, 109, 1244, 1704.1, 1704.2, 1704.3, and 1704.4 to, to repeal and add Section 71612.5 of, to add Article 1.5 (commencing with Section 1210) to Chapter 1 of, to add Article 1.5 (commencing with Section 1345) to Chapter 5 of, and to add Chapter 10.5 (commencing with Section 1725) and Chapter 12 (commencing with Section 1825) to, Part 2 of Division 2 of, the Water Code, relating to water.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 100.5 is added to the Water Code, to read:

100.5. It is hereby declared to be the established policy of this state that conformity of a use, method of use, or method of diversion of water with local custom shall not be solely determinative of its reasonableness, but shall be considered as one factor to be weighed in the determination of the reasonableness of the use, method of use, or method of diversion of water, within the meaning of Section 2 of Article X of the California Constitution.

SEC. 2. Section 109 is added to the Water Code, to read:

109. The Legislature hereby finds and declares that the growing water needs of the state require the use of water in a more efficient manner and that the efficient use of water requires greater certainty in the definition of property rights to the use of water and greater transferability of such rights. It is hereby declared to be the established policy of this state to encourage the voluntary transfer of water and water rights where consistent with the public welfare of the place of export and the place of import.

SEC. 4. Article 1.5 (commencing with Section 1210) is added to Chapter 1 of Part 2 of Division 2 of the Water Code, to read:

Article 1.5. Treated Waste Water

1210. The owner of a waste water treatment plant operated for the purpose of treating wastes from a sanitary sewer system shall hold the exclusive right to the treated waste water as against anyone who has supplied the water discharged into the waste water collection and treatment system, including a person using water under a water service contract, unless otherwise provided by agreement.

Nothing in this article shall affect the treatment plant owner's obligations to any legal user of the discharged treated waste water.

Nothing in this article is intended to interfere with the regulatory authority of the board or any California regional water quality control board under Division 7 (commencing with Section 13000).

1211. Prior to making any change in the point of discharge, place of use, or purpose of use of treated waste water, the owner of any waste water treatment plant shall obtain approval of the board for any such change. The board shall review such changes pursuant to the provisions of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2.

1212. The board shall not grant any permit or license to any person other than the treated waste water producer for the appropriation of treated waste water where the producer has introduced such water into the watercourse with the prior stated intention of maintaining or enhancing fishery, wildlife, recreational, or other instream beneficial uses. Holders of existing water rights may not use or claim such water.

SEC. 5. Section 1241 of the Water Code is amended to read:

1241. When the person entitled to the use of water fails to use beneficially all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, such unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water. Such reversion shall occur upon a finding by the board following notice to the permittee and a public hearing if requested by the permittee.

SEC. 6. Section 1244 is added to the Water Code, to read:

1244. The sale, lease, exchange, or transfer of water or water rights, in itself, shall not constitute evidence of waste or unreasonable use, unreasonable method of use, or unreasonable method of diversion and shall not affect any determination of forfeiture applicable to water appropriated pursuant to the Water Commmission Act or this code or water appropriated prior to December 19, 1914.

This section does not constitute a change in, but is declaratory of, existing law.

SEC. 7. Article 1.5 (commencing with Section 1345) is added to Chapter 5 of Part 2 of Division 2 of the Water Code, to read:

Article 1.5. Minor Protested Applications Procedure

1345. The board's Division of Water Rights shall conduct a field investigation and prepare a staff analysis of all minor protested applications. The division shall send the staff analysis by registered mail to the applicant and to any protestant.

1346. Unless the board's Division of Water Rights receives a written request for a hearing from the applicant or any protestant within 30 days after the date of mailing, the board may act on the minor application without a hearing.

1347. A request for a hearing shall specify the issues unresolved among the parties, and the board shall restrict any hearing to consideration of such unresolved issues.

1348. For purposes of this article, a minor application shall mean any application which does not involve direct diversions in excess of three cubic-feet per second or storage in excess of 200 acre-feet per year.

SEC. 8. Section 1704.1 is added to the Water Code, to read:

1704.1. The board's Division of Water Rights shall conduct a field investigation and prepare a staff analysis of all minor protested petitions for change. The division shall send the staff analysis by registered mail to the petitioner and to any protestant.

SEC. 9. Section 1704.2 is added to the Water Code, to read:

1704.2. Unless the board's Division of Water Rights receives a written request for a hearing from any protestant within 30 days after the date of mailing, the board may act on the minor petition for change without a hearing.

SEC. 10. Section 1704.3 is added to the Water Code, to read:

1704.3. A request for a hearing shall specify the issues unresolved among the parties, and the board shall restrict any hearing to consideration of such unresolved issues.

SEC. 11. Section 1704.4 is added to the Water Code, to read:

1704.4. For purposes of this chapter, a minor petition for change shall mean any petition which does not involve direct diversions in excess of three cubic-feet per second or storage in excess of 200 acre-feet per year.

SEC. 12. Chapter 10.5 (commencing with Section 1725) is added to Part 2 of Division 2 of the Water Code, to read:

CHAPTER 10.5. CHANGE OF POINT OF DIVERSION, PLACE OF USE, OR PURPOSE OF USE INVOLVING THE TRANSFER OF WATER

Article 1. Temporary Changes

1725. A permittee or licensee may temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights where such a transfer would only involve the amount of water consumptively used by the permittee or licensee, would not injure any legal user of the water, and would

not unreasonably affect fish, wildlife, or other instream beneficial uses.

1726. The permittee or licensee shall notify the board of the temporary change. The notice shall contain information indicating the amount of water consumptively used by the permittee or licensee, the amount of water proposed for transfer, the parties involved in the transfer, and any other information the board may by rule prescribe.

1727. The proposed temporary change shall be effective within 30 days after the receipt of the notification by the board unless the board, in a written response, objects to the change.

1728. Where the board has objected to a proposed temporary change, the permittee or licensee may only obtain approval of such a change upon compliance with the requirements of Chapter 10 (commencing with Section 1700) of this part.

1729. For the purposes of this article a temporary change shall mean any change of point of diversion, place of use, or purpose of use involving a transfer or exchange of water or water rights for a period of one year or less.

1730. Where the board does not object to the proposed temporary change under Section 1727, such a change shall be exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

Article 2. Changes Involving Trial Transfers

1735. The board, after providing notice and opportunity for a hearing, may approve a petition for a trial transfer of water or water rights involving a change of point of diversion, place of use, or purpose of use. The board, in approving such a petition, shall conclude, on the basis of available evidence and that substantial injury to any legal user of water is unlikely to occur, that such a transfer would not unreasonably affect fish, wildlife, or other instream beneficial uses, but that the precise effect of the transfer on other legal users or instream beneficial uses is difficult to determine in advance of such a transfer. A trial transfer shall be for a period not to exceed one year.

1736. The board may modify or revoke a trial transfer, after providing notice and opportunity for a hearing, where it finds that the trial transfer will result in substantial injury to any legal user of water.

1737. The board may consider a petition for a long-term transfer of water or water rights involving a change of point of diversion, place of use, or purpose of use where the board has previously approved a trial transfer involving the same or similar changes pursuant to Section 1735. A long-term transfer shall be for any period in excess of one year.

1738. The board, after providing notice and opportunity for a hearing, may approve such a petition for a long-term transfer where

the change would not result in substantial injury to any legal user of water and would not unreasonably affect fish, wildlife, or other instream beneficial uses.

1739. Nothing in this article shall prevent a protestant or any other party from filing a petition for a writ of mandate regarding the validity of the board's action pursuant to Section 1705.5.

Article 3. Expiration of Transfer Period

1740. Following the expiration of the temporary, trial, or long-term transfer period, all rights shall automatically revert to the original holders of such right without any action by the board.

Article 4. Transfer of Decreed Rights

1745. Any water right determined under a court decree issued pursuant to Chapter 3 (commencing with Section 2500) of Part 3 of this division subsequent to the effective date of this chapter shall be transferable pursuant to the provisions of this chapter and Chapter 10 (commencing with Section 1700) of this part. The court having the appropriate jurisdiction over the decreed rights may enter a supplemental decree modifying any rights involved upon motion of the board or any party with a vested water right.

SEC. 13. Chapter 12 (commencing with Section 1825) is added to Part 2 of Division 2 of the Water Code, to read:

CHAPTER 12. ENFORCEMENT OF WATER RIGHTS

Article 1. Policy

1825. It is the intent of the Legislature that the state should take vigorous action to enforce the terms and conditions of existing permits and licenses to appropriate water and to prevent the unlawful diversion of water.

Article 2. Cease and Desist Orders

1831. When the board determines that any person holding a permit or license to appropriate water pursuant to this division is violating any term or condition of the permit or license, the board may issue a preliminary order to any such person to cease and desist from such violation. The preliminary cease and desist order shall require such person to comply forthwith or in accordance with a time schedule set by the board. The board may issue a preliminary cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

1832. Cease and desist orders of the board shall be effective upon the issuance thereof. The board may, after notice and opportunity for hearing, upon its own motion or upon receipt of an application from

an aggrieved person, modify, revoke, or stay in whole or in part any preliminary order issued pursuant to this chapter. Copies of any cease and desist order shall be served personally or by registered mail on the person being charged and shall be sent to any other person who appeared at the hearing and requested a copy.

1833. At any time subsequent to the issuance of a preliminary cease and desist order or any modification thereof, the board may issue a final cease and desist order. No notice or opportunity for hearing is required for issuance of a final cease and desist order.

1834. (a) In the event that a violation of a term or condition of a permit or license is occurring or threatening to occur, the board shall give notice in writing to the person allegedly engaged in the violation of the term or condition. Such notice shall contain a statement of facts and information which would tend to show the proscribed action, and notification of the requirements of subdivision (b).

(b) Unless a written request for a hearing signed by or on behalf of the notified party is delivered to or received by mail by the board within 15 days after receipt of the notice, the board may adopt the proposed preliminary cease and desist order without a hearing.

1835. As used in this chapter, "person" includes any city, county, district, the state, or any department or agency thereof, and the United States to the extent authorized by law.

1836. Nothing in this chapter shall preclude the board from issuing any order or taking any other action authorized pursuant to Sections 275 and 1052.

Article 3. Judicial Review

1840. (a) Any aggrieved person may file a petition for a writ of mandate for review of any preliminary cease and desist order before such order becomes final.

(b) Within 30 days after the receipt of a copy of the final cease and desist order issued by the board, any aggrieved person may file a petition for a writ of mandate for review of the order.

(c) The evidence before the court shall consist of the record before the board. The court may permit the introduction of additional evidence upon a showing of good cause. The court shall determine good cause by considering whether the evidence could have been produced, with reasonable diligence, at the prior administrative proceeding or whether the evidence was improperly excluded. In every case, the court shall exercise its independent judgment on the evidence.

(d) The court may stay the operation of any cease and desist order only after notice and an opportunity for the board to be heard by the court. Any such stay may be imposed or continued only if it is not against the public interest.

(e) Except as otherwise provided in this section, the provisions of Section 1094.5 of the Code of Civil Procedure shall govern

proceedings pursuant to this section.

Article 4. Enforcement

1845. (a) Upon failure of any person to comply with any valid, final cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of such prohibitory or mandatory injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction.

(b) Any person or entity who violates a valid, final cease and desist order issued pursuant to this chapter may be liable for a sum not to exceed five hundred dollars ($500) for each day in which such violation occurs.

(c) The Attorney General, upon request of the board, shall petition the superior court to impose, assess, and recover such sums. In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(d) The evidence before the court shall consist of the record before the board and any evidence of a cease and desist order violation. The court may permit the introduction of additional evidence upon a showing of good cause. The court shall determine good cause by considering whether the evidence could have been produced, with reasonable diligence, at the prior administrative hearing or whether the evidence was improperly excluded. In every case, the court shall exercise its independent judgment on the evidence.

(e) All funds recovered pursuant to this section shall be transferred to the General Fund of the state.

Article 5. Private Litigation

1850. Any factual or legal determinations made pursuant to a valid, final cease and desist order shall be conclusive and shall preclude any party to the order from raising such issues in any subsequent administrative proceeding.

1851. Nothing in this chapter shall be construed to limit or abridge the right of any person to bring an action for equitable or legal relief for harm caused by an unauthorized diversion or a violation of a term or condition of a permit or license. No such person shall be required to exhaust any administrative remedy provided by this chapter before bringing such an action.

SEC. 14. Section 71612.5 of the Water Code is repealed.

SEC. 15. Section 71612.5 is added to the Water Code, to read:

71612.5. Notwithstanding any other provision of law, the Marin Municipal Water District may sell water to any person, firm, public or private corporation, or public agency or other consumer within or without the district.

SEC. 16. The Legislature hereby finds and declares that the provisions of Section 15 of this act are necessary because of special circumstances within the Marin Municipal Water District. The water supplies to this district are highly variable and the authority of this act to provide domestic and fire protection water to users outside the district is necessary to protect the public health and prevent fire propagation to property within the district. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution and that the enactment of Section 71612.5 of the Water Code as a special law as provided by Section 15 of this act is necessary for the solution of problems existing within the Marin Municipal Water District.

CHAPTER 934

An act to add Section 14679.5 to the Government Code, relating to parking facilities.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 14679.5 is added to the Government Code, to read:

14679.5. (a) Any state agency which has under its jurisdiction or control any parking facility, which is available to state officers and employees or to private persons who desire to conduct business with a state agency, shall construct, operate, and maintain bicycle and moped parking facilities for the use of bicycle and moped riders.

(b) If no parking facility under the jurisdiction and control of a state agency is available to state officers and employees or to private persons who desire to conduct business with a state agency, the state agency shall request the local authority having jurisdiction over streets and sidewalks immediately adjacent to the property of the state agency to provide parking spaces upon which parking facilities for use by bicycle and moped riders shall be constructed, operated, and maintained by such agency.

(c) As used in this section, "parking facility" means any facility or combination of facilities for parking which contains six or more parking spaces.

CHAPTER 935

An act to amend Sections 22651, 22652, and 22653 of, and to repeal Section 22650 of, the Financial Code, relating to loans.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 22650 of the Financial Code is repealed.

SEC. 2. Section 22651 of the Financial Code is amended to read:

22651. (a) If any amount other than or in excess of the charges permitted by this division is charged, contracted for, or received, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

(b) Subdivision (a) shall not apply to an error in computation if (1) the licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, and (2) within 15 days of discovering the error the licensee notifies the borrower of the error and makes whatever adjustments in the account are necessary to correct the error.

SEC. 3. Section 22652 of the Financial Code is amended to read:

22652. (a) Except as provided in Section 22651, if any provision of this division is violated in the making or collection of a loan, the contract of loan is void, and no person has any right to collect or receive any principal, interest, or charges in connection with the transaction.

(b) Subdivision (a) shall not apply to a violation if (1) the licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, and (2) within 15 days of discovering the error the licensee notifies the borrower of the error and rectifies the error by making the appropriate changes in the documents or account and by taking other action necessary to correct the error.

SEC. 4. Section 22653 of the Financial Code is amended to read:

22653. Any person including the several members, officers, directors, agents, and employees of licensees, who willfully violates or participates in the violation of any provision of the rules, orders, and regulations of the commissioner, or the provisions of this division is guilty of a misdemeanor.

CHAPTER 936

An act to add and repeal Article 7 (commencing with Section 825) of Chapter 2 of Division 1 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Article 7 (commencing with Section 825) is added to Chapter 2 of Division 1 of the Elections Code, to read:

Article 7. Reimbursable Costs

825. From moneys appropriated by the Legislature, the Secretary of State shall reimburse counties for additional costs incurred by counties for purging voter registration files pursuant to Article 5 (commencing with Section 700) and Article 6 (commencing with Section 800). Reimbursement shall be made for costs incurred only in connection with purges for the direct primary election and the general election, as defined by Sections 20 and 23.

The amount reimbursable to each county shall be determined by multiplying the statewide average cost per registered voter by the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 607. The statewide average cost per registered voter shall be determined by the Secretary of State based on the claims submitted for reimbursement for the 1978 purge of voter registration files, which cost shall not exceed ten cents ($0.10).

826. Any claim submitted to the Secretary of State pursuant to this article shall state whether the purge was conducted pursuant to Article 5 (commencing with Section 700) or Article 6 (commencing with Section 800), the amount of reimbursable costs as determined under Section 825, and the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 607. Such claims shall be made to the Secretary of State by March 31 of the next odd-numbered year following the year in which a general election is held.

SEC. 2. No reimbursements for costs incurred by counties for conducting the 1978, 1980, 1982, or 1984 purge of voter registration files shall be made by the Secretary of State unless claims are submitted to the Secretary of State on or before October 31, 1980, March 31, 1981, March 31, 1983, or March 31, 1985, respectively.

SEC. 3. This act shall be operative only until December 31, 1985, and as of such date is repealed, unless a later enacted statute chaptered before December 31, 1985, deletes or extends such date.

SEC. 4. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to more accurately estimate costs for purposes of the Budget Act, to reimburse counties for added purge costs incurred in the 1980 elections without undue delay, and to enable the orderly and efficient administration of this act by the Secretary of State's office following the November 4, 1980, general election, it is necessary that this act take effect immediately.

CHAPTER 937

An act relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. All or any portion of any property tax, penalty, or costs, shall, on satisfactory proof, be canceled by the auditor on order of the board of supervisors if it was levied or charged by a city and county on property used by a foreign government for diplomatic representation and leased during the 1973–74 fiscal year to a tax-exempt foundation for nondiplomatic purposes.

SEC. 2. The cancellation of taxes, penalties, or costs pursuant to this act must be authorized to allow a city and county to avoid the serious diplomatic and economic consequences caused by the sale of diplomatic property and the termination of representation of a sovereign nation with which diplomatic relations are established.

SEC. 3. Notwithstanding Section 2229, 2231, or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections since the authority conferred by this act is requested by the local agency affected.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The taxes due and payable will result in the sale of diplomatic property to the State of California and the closing of a consulate unless this measure goes into immediate effect.

CHAPTER 938

An act to amend Sections 859b, 861, 871, 1238, 1384, 1385, and 1387 of, and to add Section 871.5 to, the Penal Code, relating to dismissal of criminal actions.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 859b of the Penal Code is amended to read:

859b. At the time the defendant appears before the magistrate for arraignment, if the public offense is a felony to which the defendant has not pleaded guilty in accordance with Section 859a, the magistrate, immediately upon the appearance of counsel, or if none appears, after waiting a reasonable time therefor as provided in Section 859, shall set a time for the examination of the case and shall allow not less than two days, excluding Sundays and holidays, for the district attorney and the defendant to prepare for the examination. The magistrate shall also issue subpoenas, duly subscribed, for witnesses within the state, required either by the prosecution or the defense.

Both the defendant and the people have the right to a preliminary examination at the earliest possible time, and unless both waive that right or good cause for a continuance is found as provided for in Section 1050, the preliminary examination shall be held within 10 court days of the date the defendant is arraigned or pleads, whichever occurs later.

Whenever the defendant is in custody at the time of the arraignment or plea, the magistrate shall dismiss the complaint if the preliminary examination is set or continued beyond 10 court days from the time of the arraignment or plea, unless either of the following occur:

(a) The defendant personally waives his or her right to preliminary examination within the 10 court days.

(b) The prosecution establishes good cause for a continuance beyond the 10-court day period. If the preliminary examination is set or continued beyond the 10-court day period, the defendant shall be released pursuant to Section 1318 unless the defendant is charged with a capital offense in a cause where the proof is evident and the presumption great.

The magistrate shall dismiss the complaint if the preliminary examination is set or continued more than 60 days from the date of the arraignment or plea, unless the defendant personally waives his or her right to a preliminary examination within the 60 days.

SEC. 2. Section 861 of the Penal Code is amended to read:

861. The preliminary examination shall be completed at one session or the complaint shall be dismissed, unless the magistrate, for

good cause shown by affidavit, postpones it. The postponement shall not be for more than 10 court days, unless either of the following occur:

(a) The defendant personally waives his or her right to a continuous preliminary examination.

(b) The prosecution establishes good cause for a postponement beyond the 10-court day period. If the magistrate postpones the preliminary examination beyond the 10-court day period, the defendant shall be released pursuant to Section 1318 unless the defendant is charged with a capital offense in a case where the proof is evident and the presumption great.

The preliminary examination shall not be postponed beyond 60 days from the date the motion to postpone the examination is granted, unless by consent or on motion of the defendant.

SEC. 3. Section 871 of the Penal Code is amended to read:

871. If, after hearing the proofs, it appears either that no public offense has been committed or that there is not sufficient cause to believe the defendant guilty of a public offense, the magistrate shall order the complaint dismissed and the defendant to be discharged, by an indorsement on the depositions and statement, signed by the magistrate, to the following effect: "There being no sufficient cause to believe the within named A. B. guilty of the offense within mentioned, I order that the complaint be dismissed and that he or she shall be discharged."

SEC. 4. Section 871.5 is added to the Penal Code, to read:

871.5. If an action, or a portion thereof, is dismissed by a magistrate pursuant to Sections 859b, 861, 871 or 1385, the prosecutor may make a motion, with notice to the defendant and magistrate, in the superior court within 10 days after the dismissal to compel the magistrate to reinstate the complaint or a portion thereof and to reinstate the custodial status of the defendant under the same terms and conditions as when the defendant last appeared before the magistrate, on the ground that, as a matter of law, the magistrate erroneously dismissed the action or a portion thereof.

The superior court shall hear and determine the motion on the basis of the record of the proceedings before the magistrate. If the motion is litigated to decision by the people, they shall be prohibited from refiling the action, or the portion thereof, which was dismissed.

If, within 10 days after the magistrate has dismissed the action or a portion thereof, the prosecuting attorney files a written request for a transcript of the proceedings with the clerk of the magistrate, the reporter shall immediately transcribe his or her shorthand notes pursuant to Section 869 and file with the clerk of the superior court an original plus one copy, and as many copies as there are defendants (other than a fictitious defendant). The reporter shall be entitled to compensation in accordance with the provisions of Section 869. The clerk of the superior court shall deliver a copy of the transcript to the prosecuting attorney immmediately upon its receipt and shall deliver a copy of the transcript to each defendant (other than a

fictitious defendant) upon his or her demand without cost.

When a court has ordered the resumption of proceedings before the magistrate, the magistrate shall resume the proceedings within 10 days after the superior court has entered an order directing the reinstatement of the complaint, or a portion thereof, or within 10 days after the remittitur is filed in the superior court. Upon receipt of the remittitur, the superior court shall forward a copy to the magistrate.

Pursuant to paragraph (9) of subdivision (a) of Section 1238 the people may take an appeal from the denial of the motion by the superior court to reinstate the complaint or a portion thereof. If the motion to reinstate the complaint is granted, the defendant may seek review thereof only pursuant to Sections 995 and 999a. Such review may only be sought in the event the defendant is held to answer pursuant to Section 871.

Nothing contained herein shall preclude a magistrate, upon the resumption of proceedings, from considering a motion made pursuant to Section 1318.

SEC. 5. Section 1238 of the Penal Code is amended to read:

1238. (a) An appeal may be taken by the people from any of the following:

(1) An order setting aside the indictment, information, or complaint.

(2) A judgment for the defendant on a demurrer to the indictment, accusation, or information.

(3) An order granting a new trial.

(4) An order arresting judgment.

(5) An order made after judgment, affecting the substantial rights of the people.

(6) An order modifying the verdict or finding by reducing the degree of the offense or the punishment imposed or modifying the offense to a lesser offense.

(7) An order dismissing a case prior to trial made upon motion of the court pursuant to Section 1385 whenever such order is based upon an order granting defendant's motion to return or suppress property or evidence made at a special hearing as provided in this code.

(8) An order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(9) An order denying the motion of the people to reinstate the complaint or a portion thereof pursuant to Section 871.5.

(b) If, pursuant to paragraph (8) of subdivision (a), the people prosecute an appeal to decision, or any review of such decision, it shall be binding upon them and they shall be prohibited from refiling the case which was appealed.

(c) When an appeal is taken pursuant to paragraph (7) of subdivision (a), the court may review the order granting defendant's motion to return or suppress property or evidence made at a special

hearing as provided in this code.

SEC. 6. Section 1384 of the Penal Code is amended to read:

1384. If the judge or magistrate directs the action to be dismissed, the defendant must, if in custody, be discharged therefrom; or if admitted to bail, his bail is exonerated, or money deposited instead of bail must be refunded to him or to the person or persons found by the court to have deposited said money on behalf of said defendant.

SEC. 7. Section 1385 of the Penal Code is amended to read:

1385. The judge or magistrate may, either of its own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. The reasons of the dismissal must be set forth in an order entered upon the minutes. No dismissal shall be made for any cause which would be ground of demurrer to the accusatory pleading.

SEC. 8. Section 1387 of the Penal Code is amended to read:

1387. An order terminating an action pursuant to this chapter, or Section 859b, 861, 871, or 995, is a bar to any other prosecution for the same offense if it is a felony or it is a misdemeanor charged together with a felony and the action has been previously terminated pursuant to this chapter, or Section 859b, 861, 871, or 995, or if it is a misdemeanor not charged together with a felony, except in those felony cases, or those cases where a misdemeanor is charged with a felony, where subsequent to the dismissal of the felony or misdemeanor the judge or magistrate finds that substantial new evidence has been discovered by the prosecution which would not have been known through the exercise of due diligence at or prior to the time of termination of the action.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 939

An act to amend Sections 11121, 11122, 11123, 11124, and 11126, and to repeal and add Section 11125, of the Penal Code, relating to criminal records, and making an appropriation therefor.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 11121 of the Penal Code is amended to read:

11121. It is the function and intent of this article to afford persons concerning whom a record is maintained in the files of the bureau an opportunity to obtain a copy of the record compiled from such files, and to refute any erroneous or inaccurate information contained therein.

SEC. 2. Section 11122 of the Penal Code is amended to read:

11122. Any person desiring a copy of the record relating to himself shall obtain an application form furnished by the department which shall require his fingerprints in addition to such other information as the department shall specify. Applications may be obtained from police departments, sheriff departments, or the Department of Justice. The fingerprinting agency may fix a reasonable fee for affixing the applicant's fingerprints to the form, and shall retain such fee.

SEC. 3. Section 11123 of the Penal Code is amended to read:

11123. The applicant shall submit the completed application directly to the department. The application shall be accompanied by a fee not to exceed twenty-five dollars ($25) that the department determines equals the costs of processing the application and providing a copy of the record to the applicant. All fees received by the department under this section are hereby appropriated without regard to fiscal years for the support of the Department of Justice in addition to such other funds as may be appropriated therefor by the Legislature. Any request for waiver of fee shall accompany the original request for the record and shall include a claim and proof of indigency.

SEC. 4. Section 11124 of the Penal Code is amended to read:

11124. When an application is received by the department, the department shall determine whether a record pertaining to the applicant is maintained. If such record is maintained, the department shall furnish a copy of the record to the applicant or to an individual designated by the applicant. If no such record is maintained, the department shall so notify the applicant or an individual designated by the applicant. Delivery of the copy of the record, or notice of no record, may be by mail or other appropriate means agreed to by the applicant and the department.

SEC. 5. Section 11125 of the Penal Code is repealed.

SEC. 6. Section 11125 is added to the Penal Code, to read:

11125. No person or agency shall require another person to obtain a copy of a record or notification that a record exists or does not exist, as provided in Section 11124, unless specifically authorized by law. A violation of this section is a misdemeanor.

SEC. 7. Section 11126 of the Penal Code is amended to read:

11126. (a) If the applicant desires to question the accuracy or completeness of any material matter contained in the record, he may submit a written request to the department in a form established by it. The request shall include a statement of the alleged inaccuracy or incompleteness in the record, and its materiality, and shall specify

any proof or corroboration available. Upon receipt of such request, the department shall forward it to the person or agency which furnished the questioned information. Such person or agency shall, within 30 days of receipt of such written request for clarification, review its information and forward to the department the results of such review.

(b) If such agency concurs in the allegations of inaccurateness or incompleteness in the record, and finds that the error is material, it shall correct its record and shall so inform the department, which shall correct the record accordingly. The department shall inform the applicant of its correction of the record under this subdivision within 30 days. The department and the agency shall notify all persons and agencies to which they have disseminated the incorrect record in the past 90 days of the correction of the record, and the applicant shall be informed that such notification has been given. The department and the agency shall also notify those persons or agencies to which the incorrect record has been disseminated which have been specifically requested by the applicant to receive notification of the correction of the record, and the applicant shall be informed that such notification has been given.

(c) If such agency denies the allegations of inaccurateness or incompleteness in the record, the matter shall be referred for administrative adjudication in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code for a determination of whether inaccuracy or incompleteness exists in the record. The agency from which the questioned information originated shall be the respondent in the hearing. If a material inaccuracy or incompleteness is found in any record, the agency in charge of that record shall be directed to correct it accordingly, and to inform the department, which shall correct its record accordingly. The department and the agency shall notify all persons and agencies to which they have disseminated the incorrect record in the past 90 days of the correction of the record, and the applicant shall be informed that such notification has been given. The department and the agency shall also notify those persons or agencies to which the incorrect record has been disseminated which have been specifically requested by the applicant to receive notification of the correction of the record, and the applicant shall be informed that such notification has been given. Judicial review of the decision shall be governed by Section 11523 of the Government Code. The applicant shall be informed of the decision within 30 days of its issuance in accordance with Section 11518 of the Government Code.

SEC. 8. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction.

Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 940

An act to add Section 1038.5 to the Military and Veterans Code, relating to the Veterans' Home of California.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 1038.5 is added to the Military and Veterans Code, to read:

1038.5. Any money deposited with the home by a veteran shall, on and after January 1, 1981, be credited with interest at the maximum permissible passbook rate for savings and loan associations as determined by the Federal Home Loan Bank Board, and shall be paid to the veteran or to his heirs, devisees, legatees, or the qualified executor or the administrator of his estate pursuant to Section 1037 or Section 1038.

CHAPTER 941

An act to amend Sections 60400 and 60401 of the Government Code, to amend Section 11575 of the Water Code, and to amend Sections 1 and 2 of Chapter 1672 of the Statutes of 1967, relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 60400 of the Government Code is amended to read:

60400. As used in this chapter, "district" means the following:

(a) Any flood control district, including any special district having flood control powers under whatever name those powers are designated, and any improvement district therein established for such flood control purposes, which district is authorized under its principal act to levy, or to have levied on its behalf, an ad valorem assessment or ad valorem tax within the district or any zone, subzone, drainage area, maintenance area, or improvement district

thereof.

(b) Any maintenance area formed pursuant to Chapter 4.5 (commencing with Section 12878) of Part 6 of Division 6 of the Water Code.

(c) Levee District formed pursuant to Chapter 310 of the Statutes of 1905, and Levee District No. 1 of Sutter County formed pursuant to Chapter 349 of the Statutes of 1873–74. For the purposes of this chapter, "board of supervisors" shall include the trustees of the Collinsville Levee District.

As used in this chapter, "board of supervisors" includes the governing body of any district not governed by a board of supervisors. Any such governing body may act by resolution where a board of supervisors is required to act by ordinance.

SEC. 2. Section 60401 of the Government Code is amended to read:

60401. In addition to levying an ad valorem tax or ad valorem assessment for flood control services, or for the purposes set forth in Chapter 310 of the Statutes of 1905, the board of supervisors may, by ordinance, and an independent board of directors of a flood control district may, by resolution, levy an assessment on each parcel of real property within the district, or any zone, subzone, drainage area, maintenance area, or improvement district thereof, on the basis of estimated benefit sufficient to cover the cost not otherwise offset by other available revenue of providing flood control services or for the purposes set forth in Chapter 310 of the Statutes of 1905, within the district, or any zone, subzone, drainage area, maintenance area, or improvement district thereof, except that the board of supervisors shall not impose an assessment upon a federal or state governmental agency or another local agency. Benefits received may be determined on the basis of the proportionate storm water runoff from each parcel. If such benefit assessments are collected by the county on behalf of the district, the county may deduct its reasonable costs incurred for such service before remittal of the balance to the district.

SEC. 3. Section 11575 of the Water Code is amended to read:

11575. For the purpose of constructing, maintaining, and operating the project and for the purpose of providing and substituting new facilities for facilities to be taken or destroyed, the department may acquire for and in the name of the state, by gift, exchange, purchase, or eminent domain proceedings, within or without the state, any and all water, water rights, rights-of-way, easements, land, electric power, power resources and facilities, and property or appurtenances thereto of every kind and description and any appurtenances to any such property as the department determines to be required and necessary for the proper construction, maintenance, and operation of the project and for effectuating the purposes and objects to be accomplished by the construction, maintenance, and operation of the project, and for providing and substituting new facilities for facilities taken or destroyed.

SEC. 4. Section 1 of Chapter 1672 of the Statutes of 1967 is amended to read:

Section 1. The Legislature, pursuant to Section 11912 of the Water Code, approves the allocation by the Department of Water Resources of one hundred fifty-eight million nine hundred sixty-six thousand four hundred seventy-nine dollars ($158,966,479) to recreation and fish and wildlife enhancement as nonreimbursable joint costs of the State Water Project, as reported in Bulletin No. 132-80, Appendix D, "Costs of Recreation and Fish and Wildlife Enhancement," dated April 1980, in accordance with the following schedule:

Schedule:

(a) For Frenchman Dam and Lake	$2,561,408
(b) For Antelope Dam and Lake	5,117,002
(c) For Grizzly Valley Dam and Lake Davis	5,042,121
(d) California Aqueduct, Delta to Dos Amigos Pumping Plant	6,074,234
(e) San Luis Dam and Reservoir, O'Neill Forebay, and Los Banos Reservoir	3,697,415
(f) Oroville Division	11,679,615
(g) For Del Valle Dam and Lake Del Valle	17,150,474
(h) California Aqueduct, Dos Amigos Pumping Plant to termini	107,644,210
Total of schedule	$158,966,479

SEC. 5. Section 2 of Chapter 1672 of the Statutes of 1967 is amended to read:

Sec. 2. The Legislature, pursuant to Section 11912 of the Water Code, approves the expenditures of sixteen million four hundred fifteen thousand five hundred forty-seven dollars ($16,415,547) for separate specific recreation land costs of the State Water Project as revised by the Department of Water Resources in said Bulletin No. 132-80, Appendix D, in association with the following facilities and in accordance with the following schedule:

Schedule:

(a) Frenchman Dam and Lake	$ 53,460
(b) Grizzly Valley Dam and Lake Davis	224,460
(c) Oroville Division	2,901,953
(d) California Aqueduct, Delta to Dos Amigos Pumping Plant	716,095
(e) California Aqueduct, Dos Amigos Pumping Plant to termini	1,925,123
(f) San Luis Dam and Reservoir and O'Neill Forebay, and Los Banos Reservoir	634,416
(g) Del Valle Dam and Lake Del Valle	775,218
(h) Castaic Dam and Lake	3,162,850

(i) Cedar Springs Dam and Silverwood Lake....	942,236
(j) Perris Dam and Lake Perris	5,069,806
(k) Abbey Bridge Dam and Reservoir	9,930
Total of schedule	$16,415,547

SEC. 6. The Department of Finance shall have the authority to approve allocations and expenditures pursuant to Sections 1 and 2 of Chapter 1672 of the Statutes of 1967 as amended by this act. In approving such allocations and expenditures for recreation and fish and wildlife enhancement, the Department of Finance shall determine that those allocations and expenditures are supported by evidence presented by the Department of Water Resources.

SEC. 7. The Department of Water Resources may, pursuant to a written agreement between the department and the Lower San Joaquin Levee District, transfer to the Lower San Joaquin Levee District, from funds appropriated to the department during the 1980–81 fiscal year for capital outlay for the Sacramento River bank protection project, an amount not to exceed the sum of fifty thousand dollars ($50,000) for expenditure by the district for levee work along Bear Creek, a tributary of the Chowchilla Bypass, and for modifications to the weir and low flow for the bypass channel on Bear Creek. Neither the state nor the Lower San Joaquin Levee District shall be liable for any flooding caused by actions of property owners to alleviate flood hazards or construction of flood control works to protect their lands. It is recognized that the state has an interest in providing for the repair of these flood control works which were constructed by the state initially and which are inadequate to meet present flood control needs.

SEC. 8. The Legislature finds and declares that the amendments to Section 11575 of the Water Code, as enacted by Section 3 of this act, are intended to clarify and not to change existing law. It is, therefore, the intent of the Legislature in enacting the provisions of Section 3 only to declare and clarify existing law.

SEC. 9. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act amends Section 60400 of the Government Code in order to make it clear that Chapter 10 (commencing with Section 60400) of Division 2 of Title 6 of the Government Code shall apply to all special districts or similar local entities which have been delegated flood control powers by the principal act pursuant to which such

districts were formed. There are now in existence in this state numerous special districts which are not called "flood control districts," but which nevertheless have flood control powers and responsibilities and have constructed dams, levees, and similar flood control improvements for the direct benefit of lands located in flood plains or zones. Such districts would have no feasible method of raising funds for the repair and maintenance of flood control improvements already constructed or to construct new needed projects if Chapter 10 (commencing with Section 60400) of Division 2 of Title 6 of the Government Code was construed strictly to apply only to flood control districts carrying that title.

It is necessary, therefore, that this act take effect immediately to eliminate the present ambiguity in the law and future possible litigation, and to make certain that all districts having flood control powers will have the right to avail themselves of Chapter 10 (commencing with Section 60400) of Division 2 of Title 6 of the Government Code during the 1980–1981 fiscal year to avoid flood disasters caused by the lack of funds to perform necessary maintenance and repair work to existing flood control improvements.

This act also revises the amounts of certain approved expenditures for recreation land acquisition, and certain approved joint cost allocations for recreation and fish and wildlife enhancement associated with state water projects, to enable the Department of Water Resources to recover certain costs from the General Fund that were originally made from water project constructions funds.

It is necessary that this act take effect immediately to ensure an expeditious transfer of those funds.

CHAPTER 942

An act to amend Section 1280.7 of the Insurance Code, relating to reciprocal insurers.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 1280.7 of the Insurance Code is amended to read:

1280.7. This chapter and the other provisions of this code, except as set forth in this paragraph, shall not apply to or affect unincorporated interindemnity or reciprocal or interinsurance contracts between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code whose members consist solely of physicians and surgeons licensed in California, which

contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration. The provisions of Chapter 3 (commencing with Section 330) of Part 1 of Division 1 shall apply to unincorporated interindemnity or reciprocal or interinsurance contracts. Such unincorporated interindemnity or reciprocal or interinsurance contracts shall comply with all of the following requirements:

(a) Each participating member shall enter into and, concurrently therewith, receive an executed copy of a trust agreement, which shall govern the collection and disposition of all funds of the interindemnity arrangement.

The trust agreement shall, as a minimum, contain provision for all the following matters:

(1) An initial trust corpus of not less than ten million dollars ($10,000,000), which corpus shall be a trust fund to secure enforcement of the interindemnity arrangement. The average initial contribution to such corpus shall be not less than twenty thousand dollars ($20,000) per member participating in the interindemnity arrangement. No such interindemnity arrangement shall become operative until the requisite minimum reserve trust fund has been established by such participating members.

(2) The reserve trust fund created by such trust agreement shall be administered by a board of trustees of three or more members, all of whom shall be physicians and surgeons licensed in California, participating members in the interindemnity arrangement, and elected biennially or more frequently by at least a majority of all members participating in the interindemnity arrangement.

(3) The board of trustees shall be the custodian of all funds of the interindemnity arrangement, and all such funds shall be deposited in such bank or banks and savings and loan associations in California as the board may designate, and each such account shall require two or more signatories for withdrawal of funds. The authorized signatories shall be appointed by the board and shall be physicians and surgeons licensed in California and participating members in the interindemnity arrangement. Each signatory on such accounts shall maintain, at all times while empowered to draw on such funds, for the benefit of the interindemnity arrangement, a bond against loss suffered through embezzlement, mysterious disappearance, holdup or burglary or other loss issued by a bonding company licensed to do business in California in a penal sum of not less than one hundred thousand dollars ($100,000).

(4) All funds held in trust which are in excess of current financial needs shall be invested and reinvested from time to time, under the direction of the board of trustees, in eligible securities, as defined in Section 16430 of the Government Code, or in certificates of deposits or time deposits issued by banks and savings and loan associations in California duly insured by instrumentalities of the United States

government.

(5) The income earned on the corpus of the trust fund shall be the source for the payment of the claims, costs, judgments, settlements, and costs of administration contemplated by such interindemnity arrangement, and to the extent such income is insufficient for such purposes, the board of trustees shall have the power and authority to assess participating members for all amounts necessary to meet the obligations of such interindemnity arrangement in accordance with the terms thereof. Where necessary in the best interests of the interindemnity arrangement, the board of trustees may make assessments to increase the corpus of the trust fund in accordance with the terms of such interindemnity arrangement. Any assessment levied against a member shall be the personal obligation of such member. Any person who obtains a final judgment of recovery for medical malpractice against a member of such interindemnity arrangement shall have, in addition to any other remedy, the right to assert directly all rights to indemnification which the judgment debtor has under the interindemnity arrangement. Such final judgment shall be a lien on the reserve trust fund to secure payment of such judgment, limited to the extent of the judgment debtor's rights to indemnification.

Any change in the assessment agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by certified mail. Within 45 days after the posted date on the certified letter containing the ballot, each member who decides to vote on the assessment change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballots. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the assessment agreement.

If a change in the assessment agreement is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed assessment change by certified mail posted at least 45 days prior to the meeting. Seventy-five percent of those present in person or by proxy at the meeting shall be required to effectuate any change in the assessment agreement.

(6) Each participating member shall be covered by such interindemnity arrangement for not less than one million dollars ($1,000,000) for each occurrence of professional negligence, with the terms and conditions of such coverage to be specified in the trust agreement, except that such interindemnity arrangement may provide participating members with an aggregate limit for all payments on behalf of such member and may provide participating members with less than one million dollars ($1,000,000) of such coverage for each occurrence of professional negligence if the interindemnity arrangement obtains for the benefit of such members reinsurance of excess limits coverage in an amount which

when added to the coverage provided by such interindemnity arrangement would equal not less than one million dollars ($1,000,000) for each occurrence of professional negligence.

Any change in the coverage provided for professional negligence by the trust agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by certified mail. Within 45 days after the posted date on the certified letter containing the ballot, each member who decides to vote on the coverage change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballot. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the coverage provided for professional negligence by the trust agreement.

If any such change is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed coverage change by certified mail posted at least 45 days prior to the meeting. An affirmative vote of 75 percent of the membership present at the meeting, in person or by proxy, shall be required to effectuate any such change, except that at least 50 percent of the entire membership must agree to any such change.

(7) Withdrawal of all, or any portion of, the corpus of the reserve trust fund shall be upon the written authorization signed by at least two-thirds of the members of the board of trustees.

(8) The board of trustees shall cause both of the following to be furnished to each member participating in such interindemnity arrangement, and to be filed with the Commissioner of Corporations:

(A) Within 90 days after the end of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such year, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for such year, in each case accompanied by a certificate signed by a firm of independent certified public accountants selected by the board of trustees indicating that such firm has conducted an audit of such statements in accordance with generally accepted auditing standards and indicating the results of such audit.

(B) Within 45 days after the end of each of the first three quarterly periods of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such quarterly period, a statement of the revenue and expenditures of the interindemnity arrangement and a statement of the changes in corpus of the reserve trust for such period, in each case accompanied by a certificate signed by a majority of the members of the board of trustees to the effect that such statements were prepared from the official books and records of the interindemnity arrangement.

(C) In addition to the statements required to be filed pursuant to this paragraph, the board of trustees shall annually file with the Commissioner of Corporations an authorization for disclosure to the

commissioner of all financial records pertaining to the interindemnity arrangement. For the purpose of this clause, the authorization for disclosure shall also include the financial records of any association, partnership, or corporation that has management or control of the funds or the operation of the interindemnity arrangement.

(9) The trust agreement shall also provide for all the following:

(A) In the event a participating member who is in full compliance with the trust agreement, including the payment of all outstanding dues and assessments, dies, the initial contribution made by the decedent shall be returned to such member's estate or designated beneficiary; the indemnity coverage shall continue for the benefit of the decedent's estate in respect of occurrences during the time the decedent was a participating member; and neither the person receiving the repayment of the initial contribution nor the decedent's estate shall be responsible for any assessments levied following the death of the member.

(B) A participating member who is then in full compliance with the trust agreement and who has reached the age of 65 and who has retired completely from the practice of medicine may elect to retire from the interindemnity arrangement, in which case such member shall not be responsible for assessments levied following the date notice of retirement is given to the trust. Following such retirement, the indemnity coverage shall continue for the benefit of such member in respect of occurrences prior to the time such member retired from the interindemnity arrangement. Such retired member's initial contribution shall be repaid 10 years from the date the notice of retirement is received by the trust, or such earlier date as specified in the trust agreement.

(C) During any period in which a participating member, who is then in full compliance with the trust agreement, has, in the judgment of the board of trustees, become unable to perform any and every duty of his or her regular professional occupation, such participating member may request disability status in accordance with the terms of the interindemnity arrangement. During any period of disability status, such member shall not be responsible for assessments levied during such period and, where so provided in the interindemnity arrangement, all indemnity coverage, both as to defense and payment of claims, shall terminate as to occurrences arising out of the actions of such participating member during the period of disability status.

(D) In the event a participating member fails to pay any assessment when the same is due, the board of trustees may terminate such person's membership status if such failure to pay is not cured within 30 days from the date the assessment was due. Upon such termination the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to

all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(E) In the event a participating member fails to comply with any provision of the trust agreement (other than a failure to pay assessments when due), the board of trustees may terminate such person's membership status if such failure to comply is not cured within 60 days from the date such person is notified of the failure; provided that before such membership status may be terminated such person shall be given the right to call for a hearing before the board of trustees (to be held before the expiration of such 60-day period), at which hearing such person shall be given the opportunity to demonstrate to the board of trustees that no failure to comply has occurred or, if it has occurred, that it has been cured. Upon such termination, the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(F) A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate his or her membership in the interindemnity arrangement. Upon such voluntary termination, such person may further elect to cease being responsible for future assessments, or to continue to pay such assessments until such time as such person's initial contribution is repaid. In the event such person elects to cease being responsible for future assessments, the indemnity coverage shall thereupon terminate and such person shall either be responsible for his or her own exposure for acts committed while a participating member in the interindemnity arrangement, or he or she may request the interindemnity arrangement to purchase or provide, at the cost of such person, coverage for such exposure. The initial contribution of such person shall be repaid on the 10th anniversary of the date such contribution was made. In the event such person elects to continue to be responsible for assessments, the indemnity coverage shall continue in respect of occurrences prior to the date of such voluntary termination, and the initial contribution of such person shall be repaid at such time as the board of trustees is satisfied that (i) there are no claims pending against such person in respect of occurrences during the time such person was a participating member, and (ii) the statute of limitations has run on all claims which might be asserted against such person in respect of occurrences during such time. In no event shall such repayment be made earlier than the 10th

anniversary of the date such contribution was made.

(G) The board of trustees shall have the right to terminate the membership of a participating member where the board of trustees determines that such termination is in the best interests of the interindemnity arrangement even though such person has complied with all of the provisions of the trust agreement. Such a termination may be effected only if at least two-thirds of the members of the board of trustees indicate in writing their decision so to terminate. If the board of trustees proposes so to terminate a member, such member shall have the right to call a special meeting of all participating members in accordance with the rules established by the board of trustees for the purpose of voting on whether or not such member shall be so terminated. Such member shall not be so terminated if at least two-thirds of the participating members present, in person or by proxy, indicate that such member should not be so terminated. In the event a member is so terminated, such person shall elect either: (i) to request the return of his or her initial contribution, in which case the same shall be repaid and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 30 days to enable such person to assume his or her own defense; or (ii) to release all rights to the return of such initial contribution, in which case the indemnity coverage shall continue for the benefit of such member in respect of occurrences during the time such person was a participating member and such person shall have no responsibility for assessments levied following such termination. The interindemnity arrangement may provide that if a member is so terminated and fails to make the election set forth herein within 45 days of the date of notification of termination of membership, such participating member shall be deemed to have elected to release all rights to a return of his or her initial contribution, in which case indemnity coverage shall apply for the benefit of the member with respect to occurrences occurring prior to the termination.

(10) Each member participating in such interindemnity arrangement shall have the right of access to, and the inspection of, the books and records of the interindemnity arrangement, which rights shall be similar to the corporate shareholders pursuant to Section 3003 of the Corporations Code, or, commencing January 1, 1977, Sections 1600 to 1605, inclusive, of the Corporations Code.

(11) There shall be a meeting of all members participating in the interindemnity arrangement, at least annually, after not less than 10 days' written notice has been given, at a location reasonably convenient to such participating members and on a date which is within a reasonable period of time following the distribution of the annual financial statements.

(12) Notwithstanding Sections 12453 and 12703 of the Corporations Code, on any matter to be voted upon by the membership at either a regular or special meeting, a member shall have the right to vote in person or by written proxy filed with the corporate secretary prior to such meeting. No such proxy shall be made irrevocable, nor be valid beyond the earliest of the following dates:

(a) The date of expiration set forth in the proxy; or

(b) The date of termination of membership; or

(c) Eleven months from the date of execution of the proxy, or

(d) Such time as may be specified in the bylaws, not to exceed 11 months.

(13) The interindemnity arrangement, and the reserve trust fund incident thereto, shall be subject to termination at any time by the vote or written consent of not less than three-fourths of the participating members.

(b) The board of trustees shall cause to be recorded with the office of the county recorder of the county of the principal place of business of the interindemnity arrangement within 90 days following the end of each fiscal year, a written statement, executed by a majority of the board of trustees under penalty of perjury, reciting that each member participating in such interindemnity arrangement was mailed a copy of the annual financial statement and quarterly audit certificates by first-class mail, postage prepaid, required pursuant to paragraph (8) of subdivision (a).

(c) Each person solicited to become a participating member in such an interindemnity arrangement shall receive in writing, at least 48 hours prior to the execution by the prospective participating member of the trust agreement, and at least 48 hours prior to the payment by such prospective participating member of any consideration in connection with such interindemnity arrangements, the following information: (1) A copy of the articles of incorporation and bylaws of the cooperative corporation and a copy of the form of trust agreement to be executed by such prospective participating member.

(2) A disclosure statement regarding the interindemnity arrangement. The disclosure statement shall contain on the first or cover page a legend in boldface type reading substantially as follows:

"THE INTERINDEMNITY ARRANGEMENT CONTEMPLATED HEREIN PROVIDES THAT PARTICIPATING MEMBERS HAVE UNLIMITED PERSONAL LIABILITY FOR ASSESSMENTS WHICH MAY BE LEVIED TO PAY FOR THE PROFESSIONAL NEGLIGENCE LIABILITIES COVERED BY THIS ARRANGEMENT. NO ASSURANCES CAN BE GIVEN REGARDING THE AMOUNT OR FREQUENCY OF ASSESSMENTS WHICH MAY BE SO LEVIED, OR THAT ALL PARTICIPATING MEMBERS WILL MAKE TIMELY PAYMENT OF THEIR ASSESSMENTS TO COVER THE PROFESSIONAL NEGLIGENCE LIABILITY OF A PARTICIPATING MEMBER."

(3) The disclosure statement shall further contain all of the following information:

(A) The amount, nature and terms and conditions of the professional negligence coverage available under the interindemnity arrangement.

(B) The amount of the initial contribution required of each participating member and a statement of the minimum number of members and aggregate contributions required for the interindemnity arrangement to commence.

(C) The names, addresses and professional experience of each member of the board of trustees.

(D) The requirements for admission as a participating member.

(E) A statement of the services to be provided under the interindemnity arrangement to each participating member.

(F) A statement regarding the obligation of each member to pay assessments and the consequences for failure to do so.

(G) A statement of the rights and obligations of a participating member in the event such member dies, retires, becomes disabled or terminates participation for any reason, or the interindemnity arrangement terminates for any reason.

(H) A statement regarding the claims administration services to be provided, indicating whether these services will be delegated to others pursuant to a contractual arrangement.

(I) A statement of the voting rights of the members and the circumstances under which participation of such a member may be terminated and under which the interindemnity arrangement may be terminated.

(J) If any statement of estimated or projected financial information for the interindemnity arrangement is used, a statement of such estimation or projection and a summary of the data and assumptions upon which it is based.

(4) A list with the names and addresses of all then current participating members of the interindemnity arrangement.

(d) No officer, director, trustee, employee or member of the interindemnity arrangement or the cooperative corporation shall receive, or be entitled to receive, any payment, bonus, salary, income, compensation or other benefit whatsoever, either from the reserve trust fund or the income therefrom or from any other funds of the interindemnity arrangement or the members thereof based on the number of participating members, or the amount of the reserve trust fund or other funds of the interindemnity arrangement.

(e) A peer review committee or committees shall be established by the trust agreement to review the qualifications of any physician and surgeon to participate or continue to participate in such interindemnity arrangement, and to review the quality of medical services rendered by any participating member, as well as the validity of medical malpractice claims made against participating members. Any physician and surgeon, prior to becoming a participating member of such interindemnity arrangement, shall be

reviewed and approved by a majority of the members of such peer review committee. No peer review committee, or any of its members, shall be liable for any action taken by such committee in reviewing the qualifications of a physician and surgeon to participate or continue to participate, or the quality of medical services rendered, or the validity of a medical malpractice claim, unless it is alleged and proved that such action was taken with actual malice.

(f) The following are hereby defined as unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements provided for in this section.

(1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised thereby, or making any misleading representation or any misrepresentation as to the financial condition of such interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce such member to lapse, forfeit, or surrender his or her rights to indemnification under such interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(2) Making or disseminating or causing to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to such cooperative corporations or interindemnity arrangements, or with respect to any person in the conduct of such cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(3) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, such cooperative corporations or interindemnity arrangements.

(4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before the public any false statement of financial

condition of such a cooperative corporation or interindemnity arrangement with intent to deceive.

(5) Making any false entry in any book, report, or statement of such a cooperative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such a cooperative corporation or interindemnity arrangement is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to such a cooperative corporation or interindemnity arrangement in any book, report, or statement of such a cooperative corporation or interindemnity arrangement.

(6) Making or disseminating, or causing to be made or disseminated, before the public in this state, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that such a cooperative corporation or interindemnity arrangement is a member of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This paragraph shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or of the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of Chapter 1 of this part.

(7) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.

(B) Failing to acknowledge and act promptly upon communications with respect to claims arising under such interindemnity arrangements.

(C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under such interindemnity arrangements.

(D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.

(E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(F) Compelling participating members to institute litigation to recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by such participating members when such participating members have made claims under such interindemnity arrangements for amounts reasonably similar to the amounts ultimately recovered.

(G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application for membership in such an interindemnity arrangement.

(H) Attempting to settle claims on the basis of an interindemnity arrangement which was altered without notice to the participating member.

(I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.

(J) Making known to claimants a practice of such cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(K) Delaying the investigation or payment of claims by requiring a claimant, or his or her physician, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.

(M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, for the denial of a claim or for the offer of a compromise settlement.

(N) Directly advising a claimant not to obtain the services of an attorney.

(O) Misleading a claimant as to the applicable statute of limitations.

(g) Notwithstanding any contrary provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, it shall not be necessary to hold a meeting of members of such cooperative corporation for the purpose of electing directors if the bylaws provide such election may be held by certified mail balloting. Mail balloting may also be used in conjunction with a meeting at which directors are to be elected and all mail ballots shall count toward establishing a quorum for such meeting for the limited purpose of the issues set forth in the mail ballot. Directors shall be elected as follows:

(1) The candidates receiving the highest number of votes, up to the number of directors to be elected, by a specified date at least 45 days but not later than 60 days after the ballots are first mailed to the members (or the date of a meeting of members held in conjunction therewith) shall be elected.

(2) In the event that no candidate receives a majority of the votes

cast for a vacant office, a runoff election shall be held between the two candidates receiving the highest number of votes cast. The runoff election shall be held at least 45 days but not more than 60 days after the ballots for such election are mailed. In the event that there is more than one office for which no candidate receives a majority of the votes cast, the candidates for the runoff shall be twice the number of vacant offices, and shall be those persons who received the highest number of votes therefor.

Such certified mail ballots shall be kept on file for a period of three months after all vacant board positions have been filled, and shall be subject to inspection at any reasonable time by any members of the cooperative corporation.

CHAPTER 943

An act to amend Section 12302.1 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 12302.1 of the Welfare and Institutions Code is amended to read:

12302.1. (a) Contracts entered into by a county under Section 12302 shall be for terms not exceeding one year. The county at the end of the first contract term may renew the contract for a second term not exceeding one year. The rate of reimbursement for the second term shall be negotiated consistent with regulations promulgated by the State Department of Social Services. This change in rate shall reflect, but is not limited to the following financial considerations:

(1) Actual expenditures by the contractor as documented during the first contract term and approved by the state.

(2) Changes in federal, state, or county program requirements.

(3) Federal and state minimum wage and contractual step merit increases.

(4) Statutory taxes.

(5) Insurance costs.

(6) Other reasonable costs over which the contracting parties have no control.

The regulations promulgated by the department shall also establish standards governing acceptable contract provisions, the methods used to advertise, procure, select and award such contracts, and the procedures used to amend, renew, or extend an existing contract with the same contractor including, in addition to rate

changes, any other change in other terms of the contract.

The county may temporarily extend the contract in accordance with the department's regulations in order to assure continuity of service, quality of care, or the competitive bid process.

All contracts awarded, extended or renewed pursuant to this section and all amendments to such contracts shall be subject to the prior review and approval of the department. No contract shall take effect until approved in writing by the State Department of Social Services.

(b) All contracts shall, in addition to including provisions required by Section 12303, be subject to the following:

(1) Prior to initiating a contract or contracts pursuant to Section 12302, the county shall publicize its intention to solicit bids to enter into such contracts.

(2) When the county has selected one or more contract proposals for tentative acceptance or intends to renew an existing contract, the county board of supervisors shall conduct a hearing on the proposed contract, contracts, or renewal, which shall be at a regularly scheduled meeting of the board of supervisors, and open to the public.

(3) Public findings based on the public hearing shall be made available to interested parties.

(4) No contract for services provided under this article shall take effect until 30 calendar days have elapsed from the time of the public hearing required under this section.

(5) The county board of supervisors may award one or more service contracts pursuant to this article based upon the fiscal responsibility of the service providers and experience of the service providers in providing services pursuant to this article. Nothing in this subdivision, however, shall preclude a requirement that contracts under this section be awarded on a competitive bid basis.

(6) The county, to insure fiscal and program compliance, shall review the contract during the contract term. Such review may include, but shall not be limited to, a fiscal audit.

SEC. 2. The provisions of this act shall not apply to any contract in effect on the effective date of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for counties to maintain a high level of services and to prevent unnecessary expenses in the operation of their in-home supportive services programs, it is necessary for this act to take effect immediately.

CHAPTER 944

An act to add Section 12636 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 12636 is added to the Revenue and Taxation Code, to read:

12636. If the board finds that an insurer's failure to make a timely return or payment is due to reasonable cause and to circumstances beyond the insurer's control, and which occurred despite the exercise of ordinary care and in the absence of willful neglect, the insurer may be relieved of the penalty provided by Section 12258, 12631, 12632, or 12633.

Any insurer seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

SEC. 2. The Legislative Analyst shall review the present joint administration of the insurance tax and shall report to the Legislature no later than December 1, 1981, on whether the present law and procedures for administration of the tax should be revised.

CHAPTER 945

An act to add Section 393 to the Insurance Code, relating to insurance.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 393 is added to the Insurance Code, to read:

393. (a) Whenever any admitted or nonadmitted insurer rejects, declines, or cancels any policy of insurance, exclusive of commercial insurance risk, and the unearned premium is tendered to an insurance broker or agent of record as the insurer's agent, such unearned premium shall be tendered by the broker or agent to the insured or the person entitled thereto within 30 days of his or her receipt of such unearned premium from the insurer except as provided in subdivision (b). Any unearned premium received by a broker or agent not tendered within the time specified above shall bear interest at the rate of 10 percent per annum from and after such 30 days, to be paid by the broker or agent.

(b) The broker or agent may, as an alternative to the provisions of subdivision (a), apply the amount of unearned premium if not previously assigned to other premiums due, if such broker or agent gives specific written notice of such application to the insured within 30 days of the broker's or agent's receipt of such unearned premiums.

CHAPTER 946

An act relating to state office buildings, and making an appropriation therefor.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. The sum of four hundred twenty-six thousand nine hundred forty dollars ($426,940) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund in augmentation of paragraph (d) of Item 517 of the Budget Act of 1980 (Ch. 510, Stats. 1980) for allocation, subject to the prior approval of the State Public Works Board, to the Department of Motor Vehicles for the construction of an office building and parking facilities in Concord.

CHAPTER 947

An act to amend Section 14107 of, and to add Sections 14107.2 and 14107.3 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 14107 of the Welfare and Institutions Code is amended to read:

14107. Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200) is punishable by imprisonment in the county jail not longer than one year or in the state prison, or by fine not exceeding five thousand dollars ($5,000), or by both such

fine and imprisonment.

The enforcement remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.

SEC. 2. Section 14107.2 is added to the Welfare and Institutions Code, to read:

14107.2. (a) Any person who solicits or receives any remuneration, including, but not restricted to, any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in valuable consideration of any kind either:

(1) In return for the referral, or promised referral, of any individual to a person for the furnishing or arranging for the furnishing of any service or merchandise for which payment may be made in whole or in part under this chapter or Chapter 8 (commencing with Section 14200); or

(2) In return for the purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering of any goods, facility, service or merchandise for which payment may be made, in whole or in part, under this chapter or Chapter 8 (commencing with Section 14200) of this part,

is punishable upon a first conviction by imprisonment in the county jail for not longer than one year or state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment in the state prison.

(b) Any person who offers or pays any remuneration, including, but not restricted to, any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in valuable consideration of any kind either:

(1) To refer any individual to a person for the furnishing or arranging for furnishing of any service or merchandise for which payment may be made, in whole or in part, under this chapter or Chapter 8 (commencing with Section 14200); or

(2) To purchase, lease, order, or arrange for or recommend the purchasing, leasing or ordering of any goods, facility, service or merchandise for which payment may be made in whole or in part under this chapter or Chapter 8 (commencing with Section 14200),

is punishable upon a first conviction by imprisonment in the county jail for not longer than one year or state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment in the state prison.

(c) Subdivisions (a) and (b) shall not apply to either of the following:

(1) Any amount paid by an employer to an employee, who has a bona fide employment relationship with such employer, for employment with provision of covered items or services.

(2) A discount or other reduction in price obtained by a provider

of services or other entity under this chapter or Chapter 8 (commencing with Section 14200), if the reduction in price is properly disclosed and reflected in the costs claimed or charges made by the provider or entity under this chapter or Chapter 8 (commencing with Section 14200). This paragraph shall not apply to consultant pharmaceutical services rendered to skilled nursing facilities and intermediate care facilities.

(d) For purposes of this section "kickback" means a rebate or anything of value or advantage, present or prospective, or any promise or undertaking to give any such rebate or thing of value or advantage, with a corrupt intent to unlawfully influence the person to whom it is given in actions undertaken by such person in his public, professional, or official capacity.

(e) The enforcement remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.

SEC. 3. Section 14107.3 is added to the Welfare and Institutions Code, to read:

14107.3. Any person who knowingly and willfully charges, solicits, accepts, or receives, in addition to any amount payable under this chapter, any gift, money, contribution, donation, or other consideration as a precondition to providing services or merchandise to a Medi-Cal beneficiary for any service or merchandise in the Medi-Cal program's scope of benefits in addition to a claim submitted to the Medi-Cal program under this chapter or Chapter 8 (commencing with Section 14200), except either:

(1) To collect payments due under a contractual or legal entitlement pursuant to subdivision (b) of Section 14000; or

(2) To bill a long-term care patient or representative for the amount of the patient's share of the cost; or

(3) As provided under Section 14019.3,

is punishable upon a first conviction by imprisonment in the county jail for not longer than one year or state prison, or by a fine not to exceed ten thousand dollars ($10,000), or both such imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment in the state prison.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 948

An act to amend Sections 4039, 4080, and 4416 of, and to add Section 4080.3 to, the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 4039 of the Business and Professions Code is amended to read:

4039. "Person" includes firm, association, partnership, corporation, state governmental agency, or political subdivision.

SEC. 2. Section 4080 of the Business and Professions Code is amended to read:

4080. No person shall conduct a pharmacy in the State of California unless he has obtained a certificate, license, permit or registration from the board. A certificate, license, permit or registration shall be required for each pharmacy owned or operated by a specific person. A separate certificate, license, permit, or registration shall be required for each of the premises of any person operating a pharmacy in more than one location. Such certificate, license, permit or registration shall be renewed annually on or before November 1 of each year and shall not be transferable.

SEC. 3. Section 4080.3 is added to the Business and Professions Code, to read:

4080.3. When, in the opinion of the board, a high standard of patient safety, consistent with good patient care, can be provided by the licensure of a pharmacy which does not meet all of the requirements for licensure as a pharmacy, the board may waive any requirements pertaining to minimum equipment, minimum space, sanitary facilities and waiting area.

SEC. 4. Section 4416 of the Business and Professions Code is amended to read:

4416. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the following schedule:

(a) The fee for a permit to conduct a nongovernmental pharmacy shall be fixed by the board at an amount not to exceed seventy-five dollars ($75) for each pharmacy.

(b) The annual fee for renewal of the permit to conduct a nongovernmental pharmacy shall be fixed by the board at an amount not to exceed seventy-five dollars ($75) for each pharmacy.

(c) The fee for any applicant for registration shall be fixed by the board at an amount not to exceed one hundred dollars ($100).

(d) The additional fee for the issuance of a certificate to any licentiate, who is found by the board on examination to be entitled to a certificate, shall be fixed by the board at an amount not to exceed

fifty dollars ($50).

(e) The board may, by regulation, provide for the waiver or refund of the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next succeeding regular renewal date.

(f) The fee for the reissuance of a certificate shall be fixed by the board at an amount not to exceed thirty dollars ($30).

(g) Except as otherwise provided in this subdivision, the biennial renewal fee for a registered pharmacist may be fixed by the board at an amount not to exceed seventy-five dollars ($75).

(h) The fee for a wholesaler shall be fixed by the board at an amount not to exceed three hundred dollars ($300).

(i) The fee for a hypodermic license and renewal shall be fixed by the board at an amount not to exceed twenty-five dollars ($25).

(j) The penalty for failure to pay any renewal fee may be fixed by the board at an amount not to exceed 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(k) The fee for the reissuance of any permit, license, or certificate, or renewal thereof, except as provided by subdivision (f), which has been lost or destroyed or which must be reissued because of a change in the information appearing thereon is twenty dollars ($20).

(*l*) The fee for an application for exemption under Section 4050.6 shall be fixed by the board at an amount not to exceed fifty dollars ($50). Such fee shall be paid at the time the application is filed and shall not be refunded. If, after investigation or examination of the person or persons upon the basis of whose qualifications the exemption is sought, the board finds that the applicant is entitled to the exemption, it shall issue to him, upon payment of an additional fee fixed by the board at an amount not to exceed fifty dollars ($50), a certificate of exemption. Such certificate shall be renewed annually on or before the 31st day of December upon payment of a renewal fee fixed by the board at an amount not to exceed fifty dollars ($50).

(m) The fee for registration under Section 4084.5 shall be fixed by the board at an amount not to exceed twenty dollars ($20). The fee for annual renewal of such registration shall not exceed ten dollars ($10).

(n) The fee for an out-of-state drug distributor's license issued pursuant to Section 4084.6 shall be fixed by the board at an amount not to exceed the reasonable costs of the board for the issuance of such license, which in no event shall exceed three hundred dollars ($300). The fee for annual renewal of such license shall not exceed three hundred dollars ($300).

(o) The fee for registration of a laboratory to purchase and possess controlled substances for scientific or testing purposes shall be set by the board not to exceed twenty-five dollars ($25).

(p) The fee for registration of providers of continuing education shall be set by the board not to exceed fifty dollars ($50).

(q) The fee for evaluation of continuing education courses for accreditation shall be set by the board not to exceed forty dollars

($40) per course hour.

(r) The fee for evaluation of application submitted by graduates of foreign colleges of pharmacy or colleges of pharmacy not recognized by the board shall be set by the board not to exceed one hundred dollars ($100).

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 949

An act to amend Sections 3548.1 and 3548.3 of the Government Code, relating to public school employer-employee relations.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 3548.1 of the Government Code is amended to read:

3548.1. (a) If the mediator is unable to effect settlement of the controversy within 15 days after his appointment and the mediator declares that factfinding is appropriate to the resolution of the impasse, either party may, by written notification to the other, request that their differences be submitted to a factfinding panel. Within five days after receipt of the written request, each party shall select a person to serve as its member of the factfinding panel. The board shall, within five days after such selection, select a chairperson of the factfinding panel. The chairperson designated by the board shall not, without the consent of both parties, be the same person who served as mediator pursuant to Section 3548.

(b) Within five days after the board selects a chairperson of the factfinding panel, the parties may mutually agree upon a person to serve as chairperson in lieu of the person selected by the board.

SEC. 2. Section 3548.3 of the Government Code is amended to read:

3548.3. (a) If the dispute is not settled within 30 days after the appointment of the panel, or, upon agreement by both parties, within a longer period, the panel shall make findings of fact and recommend terms of settlement, which recommendations shall be advisory only. Any findings of fact and recommended terms of

settlement shall be submitted in writing to the parties privately before they are made public. The public school employer shall make such findings and recommendations public within 10 days after their receipt.

(b) The costs for the services of the panel chairperson selected by the board, including per diem fees, if any, and actual and necessary travel and subsistence expenses shall be borne by the board.

(c) The costs for the services of the panel chairperson agreed upon by the parties shall be equally divided between the parties, and shall include per diem fees and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's resume on file with the board. The chairperson's bill showing the amount payable by the parties shall accompany his final report to the parties and the board. The chairperson may submit interim bills to the parties in the course of the proceedings, and copies of such interim bills shall also be sent to the board. The parties shall make payment directly to the chairperson.

(d) Any other mutually incurred costs shall be borne equally by the public school employer and the exclusive representative. Any separately incurred costs for the panel member selected by each party, shall be borne by such party.

CHAPTER 950

An act to add Section 11100.1 to the Health and Safety Code, and to amend Section 3150 of the Welfare and Institutions Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 11100.1 is added to the Health and Safety Code, to read:

11100.1. Any manufacturer, wholesaler, retailer, or other person who receives from a source outside of this state any substance specified in subdivision (a) of Section 11100 shall submit a report of such transaction to the Department of Justice in accordance with regulations adopted by that department. However, this section does not apply to any person whose prescribing or dispensing activities are subject to the reporting requirements set forth in Section 11164.

SEC. 2. Section 3150 of the Welfare and Institutions Code is amended to read:

3150. (a) There is in the state government a Narcotic Addict Evaluation Authority, hereafter referred to in this article as the "authority." The authority shall be composed of seven members,

each of whom shall be appointed by the Governor, for a term of four years and until the appointment and qualification of his successor. Members shall be eligible for reappointment. The chairman of the authority shall be designated by the Governor from time to time. The terms of the members first appointed to the authority shall expire as follows: one on January 15, 1965, one on January 15, 1966, one on January 15, 1967, and one on January 15, 1968. The terms of the three members first appointed to the authority pursuant to amendments to this section enacted at the 1979–80 Regular Session of the Legislature shall expire as follows: one on January 15, 1983, one on January 15, 1984, and one on January 15, 1985. Their successors shall hold office for terms of four years, each term to commence on the expiration date of the term of the predecessor. The Governor shall fill every vacancy for the balance of the unexpired term. Insofar as practicable, persons appointed to the authority shall have a broad background in law, sociology, law enforcement, medicine, or education, and shall have a deep interest in the rehabilitation of narcotic addicts.

(b) Each member of the authority shall devote such time to the duties of his or her office as required for performance of his or her duties and shall be entitled to an annual salary of nine thousand five hundred dollars ($9,500) for attendance upon business of the authority. The chairman shall be entitled to an annual salary of ten thousand dollars ($10,000). In addition, each member shall be allowed actual expenses incurred in the discharge of his duties, including travel expenses.

(c) The authority shall maintain its headquarters at the California Rehabilitation Center and shall be provided with necessary office space, equipment and services from funds appropriated to the California Rehabilitation Center.

(d) The authority shall meet at the center or its branches at such times as may be necessary for a full and complete study of the cases of all patients who are certified by the Director of Corrections to the authority as having recovered from addiction or imminent danger of addiction to such an extent that release in an outpatient status is warranted. Other times and places of meetings may also be fixed by the authority. Where the authority performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least three members shall be present, and no such action shall be valid unless it is concurred in by a majority vote of those present. The authority may meet and transact business in panels. Each authority panel shall consist of at least two members of the authority. Two members of the authority shall constitute a quorum for the transaction of business of a panel. No action shall be valid unless concurred in by a majority of the members present.

(e) Members of other similar boards may be assigned to hear cases and make recommendations to the authority. Such recommendations shall be made in accordance with policies established by a majority of the total membership of the authority.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 4. The sum of thirty-seven thousand five hundred dollars ($37,500) is hereby appropriated from the General Fund to the Narcotic Addict Evaluation Authority for purposes of Section 2 of this act.

CHAPTER 951

An act to add Sections 16335.1 and 16339.8 to the Education Code, relating to the Marysville Joint Unified School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 16335.1 is added to the Education Code, to read:

16335.1. Any apportionment made to the Marysville Joint Unified School District under Section 16339.8 shall be repaid through the continuance of the seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation per grade level tax rate set forth in Section 16335, after such time as the maximum repayment under Section 16335 becomes less than seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation per grade level. When the State Controller has determined that the entire apportionment including interest, but less any amount paid by the district pursuant to Section 16339.8 has been completely repaid, this section shall cease to be operative.

SEC. 2. Section 16339.8 is added to the Education Code, to read:

16339.8. Notwithstanding any provisions of this article to the contrary, the State Allocation Board may appropriate to the Marysville Joint Unified School District a sum not to exceed seven hundred thousand dollars ($700,000) for costs incurred in repairing damage at Lindhurst High School, which was constructed pursuant to this article as a replacement of facilities not complying with earthquake safety requirements. The need for the repair of Lindhurst High School may have been caused by improper

construction or design. Therefore, the proceeds received from any insurance or arbitration award, or any other action, shall be paid by the district to the board as a direct reduction in the apportionment made under this section.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to ensure pupil safety and to avoid the increased cost of repair due to delay, it is necessary for this act to take effect immediately.

CHAPTER 952

An act to provide for a study of the feasibility of declaring as surplus property and selling portions of the Metropolitan State Hospital in the City of Norwalk, relating to state land, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. The State Department of Mental Health, in consultation with the Department of Finance and the Legislative Analyst, shall contract for a study on the feasibility of declaring portions of the Metropolitan State Hospital as surplus property, to be sold at public auction.

The study shall include, but not be limited to:

(a) A consideration of existing and foreseeable needs of the state.

(b) An estimate of the cost benefit that the state would derive from disposing of surplus property at Metropolitan State Hospital.

(c) A description of any portions of Metropolitan State Hospital which, considering (a) and (b) above, could be declared surplus state property and disposed of, but with specific reference to approximately 39.37 acres of land surrounded by Norwalk Boulevard fronting on the west, Balsam Avenue on the eastern boundary on the parcel, First Street fronting on the north, and 5th Street on the south (Balsam, 1st and 5th Street are hospital streets).

The contract shall require that the study be completed and submitted to the State Department of Mental Health and the Legislative Analyst no later than five months after the provisions of this act become effective.

The Legislative Analyst shall monitor, to the extent the Legislative Analyst deems necessary, all state administrative actions relating to the administration of this act and shall review any request for proposals for the contract, the study, and such state administrative

actions and shall report thereon to the Legislature.

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

In order to permit recommendations to be made to the Legislature regarding the disposal of surplus state property in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 953

An act to amend Sections 25216 and 25237 of the Corporations Code, to amend Sections 18412, 18593 and 22458.1 of, to add Sections 22203 and 24203 to, and to repeal Sections 18118, 22203, 22204, 22204.1, 22204.2, 22205, 22615.6, 24203, 24204, 24204.1, 24204.2, 24205, and 24609.2 of, the Financial Code, relating to regulated persons.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 25216 of the Corporations Code is amended to read:

25216. (a) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance. The commissioner shall, for the purposes of this subdivision, by rule define such schemes, devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

(b) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in connection with which such broker-dealer or agent engages in any fraudulent, deceptive or manipulative act or practice or makes any fictitious quotation. The commissioner shall, for the purposes of this subdivision, by rule define and prescribe means reasonably designed to prevent such acts and practices as are fraudulent, deceptive, or manipulative and such quotations as are fictitious.

(c) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in contravention of such rules as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors to provide safeguards with respect to the financial responsibility of broker-dealers. Such rules may require a minimum capital for broker-dealers or prescribe a ratio between net capital and aggregate indebtedness or both and a fidelity bond.

(d) No broker-dealer or agent shall effect or attempt to effect in this state, in contravention of such rules as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, (1) any transaction in connection with any security whereby any party to such transaction acquires any put, call, straddle, or other option or privilege of buying or selling the security, or (2) any transaction in connection with any security with relation to which he has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege, or (3) any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege with relation to such security.

(e) The commissioner may by rule require any issuer who employs agents in connection with any security or transaction not exempted by Chapter 1 (commencing with Section 25100) of Part 2 of this division to post a surety bond in an amount not exceeding ten thousand dollars ($10,000), conditioned that the issuer will comply with the provisions of this law and the rules and orders issued thereunder. Such bond, unless previously canceled, shall cover for the entire period that the qualification is in effect. Any appropriate deposit of cash or securities shall be accepted in lieu of any such bond. Every bond shall provide that no suit may be maintained to enforce any liability thereon unless brought within two years after the contract of sale or other act upon which such suit is based and shall also provide that the liability of the surety on such bond to all persons aggrieved shall, in no event, exceed in the aggregate the amount thereof. Every such bond shall also contain a provision authorizing the surety thereon to cancel it upon 30 days written notice to the issuer and to the commissioner; provided, however, that such cancellation shall not affect any liability incurred or accrued prior to the effective date of such cancellation.

SEC. 2. Section 25237 of the Corporations Code is amended to read:

25237. The commissioner shall prescribe such rules with respect to investment advisers who have custody of their clients' securities or funds or who have any power of attorney from their clients to execute transactions as he finds to be necessary or appropriate in the public interest or for the protection of investors. Such rules may require a minimum capital for such investment advisers or prescribe a minimum ratio between net capital and aggregate indebtedness or both, and may require a fidelity bond.

SEC. 3. Section 18118 of the Financial Code is repealed.

SEC. 4. Section 18412 of the Financial Code is amended to read:

18412. The Commissioner of Insurance shall study data available to him concerning California credit life and credit disability insurance experience and shall promulgate and establish a general regulation fixing the maximum which may be charged for such insurance by industrial loan companies hereunder having due regard

to the relation of the total amount of death and disability claims paid to the amounts at risk during the same period, and a reasonable margin for contingencies and cost and compensation to industrial loan companies for providing and servicing such insurance, plus the premium taxes payable on the probable premiums to be charged by insurers, plus the probable, but not unreasonable, markup to be added by insurers to the risk cost. Any such changed maximum rate of premium or identifiable charge shall not affect any insurance then in force on borrowers. Any regulation under this section shall be adopted after a hearing and in accordance with Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code.

SEC. 5. Section 18593 of the Financial Code is amended to read·

18593. The downpayments received by the company under the provisions of Section 18592, may be held by the company in trust in a separate bank account or depository, or in lieu thereof, the company may maintain a time deposit with a bank, savings and loan association, or comparable institution, or obtain a certificate or certificates of deposit from a bank, in an amount at least equal to the average amount of such downpayments being held at any given time by the company as ascertained by the commissioner, and which are payable to the insurer pursuant to the terms of the premium finance agreement. Such deposits or certificates shall be held in trust for the benefit of the insureds, as their relative interests in such downpayments may exist at any given time, and in the event of the insolvency of a company, such funds on deposit under the provisions of this section or as represented by a certificate or certificates of deposit shall be first applied to remitting the amount of the downpayment to the insureds on all premium finance agreements upon which the company has not then forwarded in full the downpayments collected from and then being held for insureds, and, if insufficient to pay all such amounts in full, then such funds shall be applied for such purposes pro rata.

SEC. 6. Section 22203 of the Financial Code is repealed

SEC. 7. Section 22203 is added to the Financial Code, to read:

22203. The applicant shall file with the application financial statements prepared in accordance with generally accepted accounting principles and acceptable to the commissioner which indicate a net worth of at least twenty-five thousand dollars ($25,000). A licensee shall maintain a net worth of at least twenty-five thousand dollars ($25,000) at all times.

SEC. 8. Section 22204 of the Financial Code is repealed.

SEC. 9. Section 22204.1 of the Financial Code is repealed.

SEC. 10. Section 22204.2 of the Financial Code is repealed.

SEC. 11. Section 22205 of the Financial Code is repealed.

SEC. 12. Section 22458.1 of the Financial Code is amended to read:

22458.1. Credit life insurance on the life of a borrower and credit disability insurance shall not be deemed to be a collateral sale,

purchase, or agreement within the terms of Section 22004, 22456 or 22457 when such insurance is provided in accordance with the provisions of the Insurance Code and this section.

(a) A licensee may provide insurance on the life of one or more borrowers and credit disability insurance to provide indemnity for payments becoming due on the indebtedness, with his or her consent, the form to be approved by the Insurance Commissioner and in an amount not in excess of the amount of the indebtedness and may collect from the borrower an amount not in excess of that permitted by subdivision (d) of this section. If the loan is prepaid in full by cash, a new loan, refinancing or otherwise (except by said insurance) before the final installment date the borrower shall receive a rebate of said amount computed in accordance with the formula approved by the Insurance Commissioner pursuant to Section 779.14 of the Insurance Code. When charges for the loan are precomputed in accordance with Section 22480, any permitted deferment charge may be computed on the combined total of the precomputed charge and the life or credit disability insurance charge. Only one such amount may be collected in connection with any loan contract irrespective of the number of borrowers, and only one borrower need be insured. Such amount may be deducted from the principal of the loan. If such life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of his death, or all amounts which become due on the loan thereafter during the period of such disability, as the case may be, without any exception, reservation or limitation, subject, however, to the provisions of Section 22458.2. Any such life or disability insurance as is provided shall be in force as soon as the loan is made.

(b) No licensee shall decline new or existing insurance which meets or exceeds the standards set forth in this section, nor prevent any borrower from obtaining such insurance coverage from other sources. A licensee shall not require credit life or disability insurance as a condition of making a loan.

(c) If a borrower procures such insurance by or through a licensee, the statement required by Section 22473 shall disclose the cost thereof to the borrower, and the licensee shall deliver or cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. In the event a licensee provides credit disability insurance pursuant to this division, the licensee shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making such claim. This statement shall be first approved by the commissioner.

(d) The amount charged to the borrower for such insurance shall not exceed in the case of credit life insurance the amount provided

in (1) or (2) following, whichever is less, or, in the case of credit disability insurance, unless a regulation has been promulgated and established pursuant to subdivision (e), in which case the amount charged shall not exceed the amount prescribed by such regulation, the amount provided in (1) following:

(1) The premium rate filed with the Insurance Commissioner for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1) of Chapter 1, Part 2, Division 1 of the Insurance Code and which has not been disapproved by him, or

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as shall have been fixed by the Insurance Commissioner by a valid and effective regulation adopted on or after December 31, 1961, and applicable to all licensees under the Personal Property Broker Law.

(e) The Insurance Commissioner shall study data available to him concerning California credit life and disability insurance experience and shall promulgate and establish a general regulation fixing the maximum which may be charged for such insurance by licensees hereunder having due regard to the relation of the total amount of death and disability claims paid to the amounts at risk during the same period, and a reasonable margin for contingencies and cost and compensation to licensees for providing and servicing such insurance, plus the premium taxes payable on the probable premiums to be charged by insurers, plus the probable, but not unreasonable, markup to be added by insurers to the risk cost. Any such changed maximum rate of premium or identifiable charge shall not affect any insurance then in force on borrowers. Any regulation under this section shall be adopted after a hearing and in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 13. Section 22615.6 of the Financial Code is repealed.

SEC. 14. Section 24203 of the Financial Code is repealed.

SEC. 15. Section 24203 is added to the Financial Code, to read:

24203. The applicant shall file with the application financial statements prepared in accordance with generally accepted accounting principles and acceptable to the commissioner which indicate a net worth of at least twenty-five thousand dollars ($25,000). A licensee shall maintain a net worth of at least twenty-five thousand dollars ($25,000) at all times.

SEC. 16. Section 24204 of the Financial Code is repealed.

SEC. 17. Section 24204.1 of the Financial Code is repealed.

SEC. 18. Section 24204.2 of the Financial Code is repealed.

SEC. 19. Section 24205 of the Financial Code is repealed.

SEC. 20. Section 24609.2 of the Financial Code is repealed.

CHAPTER 954

An act to amend Section 7538.2 of, and to add Sections 7538.7 and 7538.8 to, the Business and Professions Code, relating to repossessions, and making an appropriation therefor.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 7538.2 of the Business and Professions Code is amended to read:

7538.2. If personal effects or other personal property, not covered by a conditional sales agreement or by a chattel mortgage, are contained in or on personal property, at the time it is recovered, a complete and accurate inventory shall be made of such personal effects or other personal property. The date and time the inventory is made shall be indicated and it shall be signed by the person or persons who recovered the personal property on behalf of the legal owner or mortgagee. The inventory shall be filed in the permanent records of the licensee and shall be made available to the director or his representatives upon demand during normal business hours. The inventory shall include the name, address, and phone number of persons to contact for recovering such personal property and an itemization of all personal property storage charges that will be made by the repossessor. Such inventory shall be provided to a consumer not later than 48 hours after the recovery of personal property. Except, however, if the 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property. The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossessor. Falsification or alteration of an inventory shall be grounds for suspension or revocation of a license.

SEC. 2. Section 7538.7 is added to the Business and Professions Code, to read:

7538.7. Each person licensed as a repossessor shall serve a consumer with a notice of seizure as soon as possible after the recovery of personal property, but in no event later than 48 hours after the repossession of personal property, which notice shall include:

(a) The name, address, and phone number of the representative of the legal owner to be contacted regarding repossession.

(b) The name, address, and phone number of the representative of the repossessor to be contacted regarding repossession.

(c) A statement printed on the notice containing the following:

"Repossessors are regulated by the Bureau of Collection and Investigative Services and are required to provide you, not later than

48 hours after the recovery of personal property, with an inventory of personal effects or personal property recovered during repossession."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession is the liability of the repossessor".

The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossessor.

SEC. 3. Section 7538.8 is added to the Business and Professions Code, to read:

7538.8. A person licensed as a repossessor shall be prohibited from using any false or misleading representation during the course of recovery of personal property, including any of the following:

(a) The false representation or implication that the repossessor is vouched for, bonded by, or affiliated with the United States or with any state, county, city, or city and county, including the use of any badge, uniform, or facsimile thereof.

(b) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

(c) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person, unless such action is lawful and the repossessor or creditor intends to take such action.

(d) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(e) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.

(f) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or which creates a false impression as to its source, authorization, or approval.

(g) Failure to disclose clearly in all communications made to collect a debt or to obtain information about the consumer, that the repossessor is attempting to collect a debt and that any information obtained will be used for that purpose.

(h) The false representation or implication that documents are legal process.

(i) The use of any business, company, or organization name other than the true name of the repossessor's business, company, or organization.

(j) The false representation or implication that documents are not legal process forms or do not require action by the consumer.

(k) The use of any deceptive forms.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which

may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 955

An act to amend Sections 201.5, 202, 203, 204, 205, 268, 328, 333, 405.1, 405.2, 405.3, 405.4, 405.5, 405.6, 420, 423, 441, 553.3, 578, 578a, 584, 587, 588, 591.2, 591.3, 591.6, 630, 632, 643, 644, 650, 653, 655, 656, 662, 681, 718.5, 718.7, 755, 771, 772, 773, 775, 810, 831, 841, 860, 904, 911, 922, 926, 1000, 1020, 1027, 1041, 1080, 1120, 1172, 1191, and 1200 of, and to add Sections 1142.3 and 1200.5 to, the Probate Code, relating to decedents' estates.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 201.5 of the Probate Code is amended to read:

201.5. Upon the death of any married person domiciled in this state, one-half of the following property in his or her estate shall belong to the surviving spouse and the other one-half of such property is subject to the testamentary disposition of the decedent, and, in the absence thereof, goes to the surviving spouse subject to the provisions of Sections 202 and 203:

(a) All personal property wherever situated, and all real property situated in this state, heretofore or hereafter acquired by the decedent while domiciled elsewhere which would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time of its acquisition.

(b) All personal property wherever situated, and all real property situated in this state, heretofore or hereafter acquired in exchange for real or personal property, wherever situated, which would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time the property so exchanged was acquired.

All such property is subject to the debts of the decedent as provided by law.

As used in this section, personal property does not include and real property does include, leasehold interests in real property.

For purposes of this chapter, and for purposes of Article 3 (commencing with Section 650) of Chapter 10 of Division 3, the

property defined in this section shall be known as "quasi-community property."

SEC. 2. Section 202 of the Probate Code, as amended by Section 1.1 of Chapter 731 of the Statutes of 1979, is amended to read:

202. (a) Except as provided in Section 204, when a husband or wife dies intestate, or dies testate and by his or her will bequeaths or devises all or a part of his or her interest in the community property or quasi-community property to the surviving spouse, it passes to the survivor subject to the provisions of Sections 203 and 205, and no administration is necessary.

(b) Notwithstanding subdivision (a), upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the property of the surviving spouse, the interest of the deceased spouse in the community property or quasi-community property, or both, the interest of the deceased spouse and the surviving spouse in the community property or quasi-community property, or both, may be administered under Division 3 (commencing with Section 300). The election must be made within four months after the issuance of letters testamentary or of administration, or within such further time as the court may allow upon a showing of good cause, by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse and prior to the entry of an order under Section 655.

(c) Notwithstanding subdivision (a) or (b), the surviving spouse or the personal representative, guardian of the estate, or conservator of the property of the surviving spouse may file an election and agreement in the proceedings for the administration of the estate of the deceased spouse to have all or part of the interest of the surviving spouse in the community property or quasi-community property transferred by the surviving spouse or his or her personal representative, guardian, or conservator to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee. The election and agreement must be filed before the entry of the decree of final distribution in the proceedings.

SEC. 3. Section 203 of the Probate Code is amended to read:

203. After 40 days from the death of a spouse, the surviving spouse or the personal representative, guardian of the estate, or conservator of the property of the surviving spouse shall have full power to sell, lease, mortgage or otherwise deal with and dispose of the community or quasi-community real property, unless a notice is recorded in the county in which the property is situated to the effect that an interest in the property is claimed by another under the will of the deceased spouse. The notice must also (1) describe the property in which an interest is claimed, and (2) set forth the name or names of the owner or owners of the record title to the property. There shall be endorsed on the notice instructions that it shall be

indexed by the recorder in the name or names of the owner or owners of the record title to the property, as grantor or grantors, and in the name of the person claiming an interest in the property, as grantee. The right, title, and interest of any grantee, purchaser, encumbrancer, or lessee shall be as free of rights of devisees or creditors of the deceased spouse to the same extent as if the property had been owned as the separate property of the surviving spouse.

SEC. 4. Section 204 of the Probate Code is amended to read:

204. When a deceased spouse disposes by will of all or part of his or her interest in the community property or quasi-community property to someone other than the surviving spouse or when the will of a deceased spouse contains a trust or limits the surviving spouse to a qualified ownership in the property, that part of the interest of the deceased spouse in the community property or quasi-community property disposed of to someone other than the surviving spouse, disposed of in trust, or limiting the surviving spouse to a qualified ownership in the property shall be subject to administration under Division 3 (commencing with Section 300). A will that provides for a devise or bequest of community property or quasi-community property to the surviving spouse if such spouse survives the deceased spouse by a specified period of time shall not be considered to create such a qualified ownership as to fall within the provision of this section, if the specified period of time has expired.

SEC. 5. Section 205 of the Probate Code is amended to read:

205. (a) Except as provided by Section 951.1, upon the death of a married person, the surviving spouse is personally liable for the debts of the deceased spouse chargeable against the community property and the debts of the deceased spouse chargeable against the separate property of the deceased spouse to the extent such separate property is characterized as quasi-community property under Section 201.5 by the provisions of Title 8 (commencing with Section 5100) of Part 5 of Division 4 of the Civil Code, unless the interests of both spouses in the community property or quasi-community property, or both, are administered under Division 3 (commencing with Section 300). The personal liability shall not exceed the value at the date of death, less the amount of any liens and encumbrances, of the interest of the surviving spouse (1) in the community property immediately prior to the death and (2) in quasi-community property arising by virtue of the death which is not exempt from execution plus the interest of the deceased spouse in such property passing to the surviving spouse without administration.

(b) If proceedings are commenced in this state for the administration of the estate of the deceased spouse and notice to creditors has been given by the personal representative, any action upon the liability of the surviving spouse pursuant to subdivision (a) shall be barred to the same extent as provided for claims under Article 1 (commencing with Section 700) of Chapter 12 of Division

3 except as to the following:

(1) Creditors who had commenced judicial proceedings for the enforcement of the debts and had served the surviving spouse with process prior to the date of the last publication of the notice to creditors.

(2) Creditors who secure the acknowledgment in writing of the liability of the surviving spouse for the debts.

(3) Creditors who file a timely claim in the proceedings.

(c) Except as provided by subdivision (b), any debt described in subdivision (a) may be enforced against the surviving spouse in the same manner as it could have been enforced against the deceased spouse if the deceased spouse had not died. In any action based upon the debt, the surviving spouse may assert any defenses, counterclaims, or setoffs which would have been available to the deceased spouse if the deceased spouse had not died.

SEC. 5.1. Section 268 of the Probate Code is amended to read:

268. This petition shall be set for hearing not sooner that 10 days after the filing of the petition and notice thereof shall be given by the clerk of the court in the manner specified in Section 1200. Notice shall also be given by the petitioner by registered mail to each of the persons who would be heirs at law of the missing person, if he or she were dead, and if it appears that the missing person left a will, then like notice shall be given to each legatee mentioned therein, at his or her respective place of address, a return card being requested with each of the notices so registered in the mail. If the address of any person is unknown the notice shall be mailed as aforesaid to the person at the county seat of the county in which the court is held, and an affidavit of the trustee filed showing that the address is unknown, and stating what efforts he or she has made to determine the address.

SEC. 5.5. Section 328 of the Probate Code is amended to read:

328. At least 10 days before the hearing, notice of the hearing must be personally served upon each heir of the testator and each devisee and legatee named in the will and each person named as executor who is not petitioning, or mailed, postage prepaid, from a post office within this state, addressed to each such person at his or her respective place of residence or mailing address, if known to the petitioner, if not, at the county seat of the county where the proceedings are pending. This notice shall also advise the person receiving the notice of the right to request special notice pursuant to Sections 1202 and 1202.5.

Whenever the instrument offered for probate involves or may involve a testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state, or involves or may involve a bequest or devise for a charitable purpose without an identified legatee, devisee, or beneficiary, notice of the hearing on the petition for probate accompanied by a copy of the petition and the will, must be personally served upon the Attorney General or mailed, postage

prepaid from a post office within this state, addressed to him or her at the office of the Attorney General at Sacramento, California.

As used in this section "post office" includes mailbox, subpost office, substation and mail chute or other like facility regularly maintained by the government of the United States.

SEC. 5.6. Section 333 of the Probate Code is amended to read:

333. (a) Publication of notice pursuant to this section shall be for at least 10 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting such publication dates, are sufficient. Notice shall be published in a newspaper of general circulation in the city where the decedent resided at time of death, or where the decedent's property is located. If there is no such newspaper, the decedent did not reside in a city, or the property is not located in a city, then notice shall be published in a newspaper of general circulation within the judicial district in which the decedent resided or the property is located. If there is no such newspaper, notice shall be published in a newspaper of general circulation in the county which is circulated within the community in which the decedent resided or the property is located. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within such community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) Whether published or posted, the caption of such notice and decedent's name shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state:

"NOTICE OF DEATH OF

_____

AND OF PETITION TO ADMINISTER ESTATE NO._____

To all heirs, beneficiaries, creditors and contingent creditors of _____ and persons who may be otherwise interested in the will and/or estate:

A petition has been filed by _____ in the Superior Court of _____ County requesting that _____ be appointed as personal representative to administer the estate of _____ [under the Independent Administration of Estates Act]. The petition is set for hearing in Dept. No. _____ at _____

_____ on

(Address)

_____ at _____ .

(Date of hearing) (Time of hearing)

IF YOU OBJECT to the granting of the petition, you should either appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court or present it to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Section 700 of the Probate Code of California. The time for filing claims will not expire prior to four months from the date of the hearing noticed above.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may file a request with the court to receive special notice of the inventory of estate assets and of the petitions, accounts and reports described in Section 1200.5 of the California Probate Code.

_____

(Name and address of petitioner, or his or her attorney)"

(c) No petition filed pursuant to Section 326 or 440 may be heard by the court unless an affidavit showing due publication of notice has been filed with the clerk upon completion of the publication. Such affidavit shall contain a copy of the notice, and state the date of its first publication.

SEC. 5.7. Section 333 of the Probate Code is amended to read:

333. (a) Publication of notice pursuant to this section shall be for at least 10 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting such publication dates, are sufficient. Notice shall be published in a newspaper of general circulation in the city where the decedent resided at time of death, or where the decedent's property is located if the court has jurisdiction over the estate pursuant to subdivision (3) of Section 301. If there is no such newspaper, the decedent did not reside in a city, or the property is not located in a city, then notice shall be published in a newspaper of general circulation in the county which is circulated within the community in which the decedent resided or the property is located. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within such community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) Whether published or posted, the caption of such notice and decedent's name shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state:

"NOTICE OF DEATH OF

_____

AND OF PETITION TO ADMINISTER ESTATE NO._____

To all heirs, beneficiaries, creditors and contingent creditors of _____ and persons who may be otherwise interested in the will and/or estate:

A petition has been filed by _____ in the Superior Court of _____ County requesting that _____ be appointed as personal representative to administer the estate of _____ [under the Independent Administration of Estates Act]. The petition is set for hearing in Dept. No. _____ at _____ _____ on

(Address)

_____ at _____ .

(Date of hearing) (Time of hearing)

IF YOU OBJECT to the granting of the petition, you should either appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court or present it to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Section 700 of the Probate Code of California. The time for filing claims will not expire prior to four months from the date of the hearing noticed above.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may file a request with the court to receive special notice of the inventory of estate assets and of the petitions, accounts and reports described in Section 1200.5 of the California Probate Code.

_____

(Name and address of petitioner, or his or her attorney)"

(c) No petition filed pursuant to Section 326 or 440 may be heard by the court unless an affidavit showing due publication of notice has been filed with the clerk upon completion of the publication. Such affidavit shall contain a copy of the notice, and state the date of its first publication.

SEC. 6. Section 405.1 of the Probate Code is amended to read:

405.1. Qualification by a nonresident of the state as an executor, administrator, or administrator with the will annexed or removal from and residence without the state by an executor, administrator, or administrator with the will annexed who was formerly a resident, is equivalent to and shall constitute an appointment by such executor, administrator, or administrator with the will annexed of the Secretary of State to be his or her true and lawful attorney, upon whom may be served all lawful processes and notices of motion made under provisions of Section 385 of the Code of Civil Procedure in any action or proceeding against such executor, administrator, or

administrator with the will annexed with respect to the estate or founded upon or arising out of any of his or her acts or omissions as such executor, administrator, or administrator with the will annexed, which appointment shall also be irrevocable and binding upon his or her executor or administrator.

SEC. 7. Section 405.2 of the Probate Code is amended to read:

405.2. Any nonresident executor, administrator, or administrator with the will annexed or any executor, administrator, or administrator with the will annexed who removes from and resides without the state, shall file in the proceedings relating to the estate of the decedent an original statement signed and acknowledged by such executor, administrator, or administrator with the will annexed, setting forth his or her permanent address, and if the permanent address be changed, then such executor, administrator, or administrator with the will annexed shall forthwith file in a like manner an original statement of such change of address.

SEC. 8. Section 405.3 of the Probate Code is amended to read:

405.3. Service of process or a notice of a motion to be made under provisions of Section 385 of the Code of Civil Procedure shall be made by delivering to and leaving with the Secretary of State by the plaintiff or his or her attorney in any action or proceeding against the executor, administrator, or administrator with the will annexed, two copies of the summons and complaint or notice of motion, and a copy of the statement filed by the executor, administrator, or administrator with the will annexed under the provisions of Section 405.2 or, if such a statement has not been filed, a copy of the letters testamentary or of administration issued to the executor, administrator, or administrator with the will annexed, together with a written statement signed by the party to the action seeking such service, or by his or her attorney, setting forth an address to which such process shall be sent by the Secretary of State. The Secretary of State shall forthwith mail by registered mail one copy of said summons and complaint or notice of motion to the executor, administrator, or administrator with the will annexed at his or her address as shown in such statement delivered to the Secretary of State. Personal service of such process or notice of motion upon the executor, administrator, or administrator with the will annexed wherever found outside the state shall be the equivalent of service as herein in this section provided.

SEC. 9. Section 405.4 of the Probate Code is amended to read:

405.4. Proof of compliance with Section 405.3 shall be made in the event of service by mail by certificate of the Secretary of State, under his or her official seal, showing said mailing. Such certificate shall be filed with the court from out of which such summons issued. In the event of personal service outside this state, such compliance may be proved by the return of any duly constituted public officer, qualified to serve like process or notice of motion of and in the state or jurisdiction where the executor, administrator, or administrator with the will annexed is found, showing such service to have been made.

Such return shall be appended to the original summons or notice of motion which shall be filed as aforesaid.

SEC. 10. Section 405.5 of the Probate Code is amended to read:

405.5. Service made under Section 405.3 shall have the same legal force and validity as if service had been made personally in this state; provided, however, that when summons and complaint is thusly served upon him or her, the executor, administrator, or administrator with the will annexed may appear and answer the complaint within 30 days from the date of service, and such notice of motion must be served upon the executor, administrator, or administrator with the will annexed at least 30 days in advance of the date of the hearing on the motion.

SEC. 11. Section 405.6 of the Probate Code is amended to read:

405.6. Failure by an executor, administrator, or administrator with the will annexed to comply with the provisions of Section 405.2 shall be cause for removal.

SEC. 12. Section 420 of the Probate Code is amended to read:

420. No person is competent to serve as an administrator or administratrix who is not a resident of the United States, or who does not have the qualifications required of an executor or executrix.

SEC. 13. Section 423 of the Probate Code is amended to read:

423. Administration may be granted to one or more competent persons at the written request of the person entitled, or of the guardian or conservator of the person entitled, filed in court. If the person making the request is a child, grandchild, parent, brother or sister of the decedent, the nominee shall have priority next after those in the class of the person making the request; otherwise the court, in its discretion, may appoint either such nominee or a person of a class subsequent in rank to that of the person making the request; but other persons of the class of the person making the request shall have priority over such nominee.

SEC. 13.1. Section 441 of the Probate Code is amended to read:

441. The clerk shall set the petition for hearing by the court and cause notice thereof to be published pursuant to Section 333. The clerk shall also cause notice of the hearing to be mailed, postage prepaid, to each heir of the decedent named in the petition at least 10 days before the hearing, addressed to each heir at the heir's residence or mailing address as set forth in the petition, otherwise at the county seat of the county where the proceedings are pending. Such mailed notice shall also advise the person receiving such notice of the right to request special notice pursuant to Sections 1202 and 1202.5.

SEC. 13.2. Section 553.3 of the Probate Code is amended to read:

553.3. If an administrator or executor desires to have the amount of the bond reduced, he or she may apply to the court for that relief by filing a verified petition setting forth the condition of the estate. The petition shall be set for hearing by the clerk and notice shall be given by the petitioner in the manner required by Section 1200.5. Upon the hearing of the petition, the court may reduce the amount

of the bond to any amount or sum which, in the discretion of the court, may seem proper under the circumstances, subject, however, to the limitations of Section 541, and the executor or administrator may furnish new sureties who shall qualify for the reduced amount.

SEC. 13.3. Section 578 of the Probate Code is amended to read:

578. If a debtor of the decedent is unable to pay all his or her debts, the executor or administrator, with the approval of the court, may give the debtor a discharge, upon such terms as may appear to the court to be for the best interest of the estate. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate. The court may also authorize the executor or administrator on such terms and conditions as may be approved by it to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or the decedent's estate. To obtain approval or authorization, the executor or administrator shall file a verified petition with the clerk showing the advantage of the settlement, compromise, extension, renewal, or modification. The clerk shall set the petition for hearing by the court and notice thereof shall be given by the petitioner for the period and in the manner required by Section 1200.5.

SEC. 13.4. Section 578a of the Probate Code is amended to read:

578a. An executor or administrator shall have power, with approval of the court which ordered his or her appointment, to compromise and settle all claims or rights of action given to him or her by any law for the wrongful death or injury of the decedent, including any action brought by the executor or administrator in attempting enforcement thereof. That power shall include the giving of a covenant not to sue.

To obtain approval or authorization, the executor or administrator shall file a verified petition with the clerk showing the amount of money proposed to be paid. The clerk shall set the petition for hearing by the court and the executor or administrator shall give notice thereof in the manner specified in Section 1200.5.

SEC. 13.5. Section 584 of the Probate Code is amended to read:

584. Pending the settlement of an estate, or at the time of settlement of an estate, on the petition of the executor or administrator, or of any person interested in the estate, and upon good cause shown therefor, the court may order any money in the hands of the executor or administrator, to be invested for the benefit of the estate in securities of the United States or of this state or in the purchase from an insurer admitted to do business in this state and for any legatee named in the will of an annuity expressly granted to him by said will. The clerk shall set the petition for hearing by the court and notice thereof shall be given by the petitioner for the period and in the manner required by Section 1200.5.

SEC. 13.6. Section 587 of the Probate Code is amended to read:

587. Whenever it is for the advantage, benefit, and best interest of the estate, and those interested therein, the executor or administrator may, either with or without consideration:

(1) dedicate or convey any real property of the estate or interest therein to the state or any county or municipal corporation, or the United States of America or any agency or instrumentality thereof, for street or highway purposes, or any other purpose; (2) dedicate or convey an easement over any real property of the estate to the state or any county, municipal corporation, public district, any person, firm, association, or public or private corporation, or the United States of America or any agency or instrumentality thereof; or (3) convey, release, or relinquish to the state or any county or municipal corporation any access rights to any street, highway, or freeway from any real property of the estate, upon order of court based upon the petition of the executor or administrator or of any person interested in the estate, and after notice of the hearing is given by the clerk for the period and in the manner required by Section 1200 and after notice is given by the petitioner in the manner specified in Section 1200.5.

SEC. 13.7. Section 588 of the Probate Code is amended to read:

588. In all cases where no other or no different procedure is provided by statute, the court on petition of the executor or administrator may from time to time instruct and direct him or her as to the administration of the estate and the disposition, management, operation, care, protection, or preservation of the estate or any property thereof. Notice of the hearing of such petition shall be given by the petitioner for the period and in the manner required by Section 1200.5.

SEC. 13.8. Section 591.2 of the Probate Code is amended to read:

591.2. Upon obtaining authority to administer the estate under this article, the executor or administrator shall proceed to administer the estate in the same manner as provided in this code with respect to executors or administrators who have not been granted such authority. However, he shall not be required to obtain judicial authorization, approval, confirmation, or instructions, which shall be known and referred to in this article as "court supervision", with respect to any actions during the course of the administration of the estate, except that he shall be required to obtain court supervision, in the manner provided in this code, for any of the following actions:

(a) Sale or exchange of real property whether sold individually or as a unit with personal property.

(b) Allowance of executor's and administrator's commissions and attorney's fees.

(c) Settlement of accountings.

(d) Preliminary and final distributions and discharge.

(e) Granting options to purchase real property.

Nevertheless, the executor or administrator may obtain court supervision as provided in this code of any action taken by him or her during the administration of the estate. All publications of notice required by this code shall continue to be given except, when no hearing is required because the executor or administrator does not seek court supervision of an action or proposed action, no publication

of the notice of hearing shall be required.

SEC. 13.9. Section 591.3 of the Probate Code is amended to read:

591.3. Prior to the consummation of any of the actions described in this section without court supervision, the executor or administrator to whom authority has been granted to act without court supervision shall advise the persons affected by the proposed action of his intention to take such action. The advice, known and referred to in this article as "advice of proposed action," shall be given to the devisees and legatees whose interest in the estate is affected by the proposed action; to the heirs of the decedent in intestate estates; to the State of California if any portion of the estate is to escheat to it; and to persons who have filed a request for special notice pursuant to Section 1202.

The actions requiring such advice are all of the following:

(a) Selling or exchanging personal property, except for securities sold upon an established stock or bond exchange and other assets referred to in Sections 770 and 771.5 when sold for cash.

(b) Leasing real property for a term in excess of one year.

(c) Entering into any contract, other than a lease of real property, not to be performed within two years.

(d) Continuing for a period of more than six months from the date of appointment of the executor or administrator of an unincorporated business or venture in which the decedent was engaged or which was wholly or partly owned by the decedent at the time of his or her death, or the sale or incorporation of such business.

(e) The first payment, the first payment for a period commencing 12 months after the death of the decedent, and any increase in the payments of, a family allowance.

(f) Investing funds of the estate, except depositing funds in banks and investing in insured savings and loan association accounts, and in direct obligations of the United States maturing not later than one year from the date of investment or reinvestment.

(g) Completing a contract entered into by the decedent to convey real or personal property.

(h) Borrowing money or executing a mortgage or deed of trust or giving other security.

(i) Determining third-party claims to real and personal property if the decedent died in possession of, or holding title to, such property, or determining decedent's claim to real or personal property title to or possession of which is held by another.

SEC. 13.10. Section 591.6 of the Probate Code is amended to read:

591.6. Unless restricted by the will, an executor or administrator who has been granted authority to administer the estate without court supervision shall have all of the following powers, in addition to any other powers granted by this code, which powers can be exercised in the manner provided in this article:

(a) To manage, control, convey, divide, exchange, partition, and to sell for cash or on credit; to lease for any purpose, including exploration for and removal of gas, oil, or other minerals; to enter

into community oil leases; and to grant options to purchase real property for a period within or beyond the administration of the estate.

(b) To invest and reinvest money of the estate in deposits in banks and insured savings and loan association accounts and in direct obligations of the United States maturing not later than one year from the date of investment or reinvestment; to invest and reinvest any surplus moneys in his or her hands in any manner provided by the will.

(c) To borrow; to place, replace, renew or extend any encumbrance upon any property in the estate.

(d) To abandon worthless assets or any interest therein.

(e) To make ordinary or extraordinary repairs or alterations in buildings or other property.

(f) To vote a security, in person or by general or limited proxy.

(g) To sell or exercise stock subscription or conversion rights.

(h) To hold a security in the name of a nominee or in other form without disclosure of the estate, so that title to the security may pass by delivery, but the executor or administrator is liable for any act of the nominee in connection with the security so held.

(i) To insure the assets of the estate against damage or loss, and the executor or administrator against liability with respect to third persons.

(j) To allow, pay, reject, contest and compromise any claim by or against the estate by compromise; to release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible; to institute, compromise and defend actions and proceedings.

(k) To pay taxes, assessments, and other expenses incurred in the collection, care and administration of the estate.

(*l*) To continue the operation of the decedent's business to such extent as he or she shall deem to be for the best interest of the estate and those interested therein.

(m) To pay a reasonable family allowance.

SEC. 13.11. Section 630 of the Probate Code, as amended by Section 13.1 of Chapter 731 of the Statutes of 1979, is amended to read:

630. When a decedent leaves no real property, other than any property right a person has to a cemetery plot under Chapter 4 (commencing with Section 8600) of Part 3 of Division 8 of the Health and Safety Code, nor interest therein nor lien thereon, in this state, and the total value of the decedent's property in this state, excluding any motor vehicle of which the decedent is the owner or legal owner, over and above any amounts due to the decedent for services in the armed forces of the United States, and over and above the amount of salary not exceeding five thousand dollars ($5,000), including compensation for unused vacation, owing to decedent for services from any employment, does not exceed thirty thousand dollars ($30,000), the surviving spouse, the children, lawful issue of deceased

children, a parent, brothers or sisters of the decedent, the lawful issue of a deceased brother or sister, or the guardian or conservator of the estate of any person bearing such relationship to the decedent, or the trustee named under a trust agreement executed by the decedent during his lifetime, the primary beneficiaries of which bear such relationship to the decedent, if such person or persons has or have a right to succeed to the property of the decedent, or is the sole beneficiary or are all of the beneficiaries under the last will and testament of the decedent, may, without procuring letters of administration, or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to such person or persons upon furnishing the person, representative, corporation, officer or body owing the money, having custody of such property or acting as registrar or transfer agent of such evidences of interest, indebtedness or right, with an affidavit or declaration under penalty of perjury showing the right of the person or persons to receive such money or property, or to have such evidences transferred.

SEC. 14. Section 632 of the Probate Code is amended to read:

632. For the purpose of this article, any property or interest therein or lien thereon which, at the time of the decedent's death, was held by the decedent as joint tenant, or in which the decedent had a life or other estate terminable upon the decedent's death, or which was held by the decedent as community property or quasi-community property and passed to the decedent's surviving spouse pursuant to Section 202, shall be excluded in determining the property or estate of the decedent or its value.

SEC. 14.1. Section 643 of the Probate Code is amended to read:

643. (a) If a separate petition is filed under the provisions of Section 641 without there having been any other petition filed, there shall be no notice of any type other than as prescribed in this subdivision. In those cases, the clerk shall fix a day for the hearing thereof and the petitioner shall give notice of the hearing to each heir by mail not less than 10 days prior to the hearing, and the petitioner shall give notice for the period and in the manner required by Section 1200.5.

(b) If the hearing of the original petition for probate of the will or for letters of administration is set for a day more than 10 days after the filing of a separate petition filed with respect to the same estate, the latter shall be set for hearing at the same time as the former and notice thereof shall be given by the petitioner as provided in Section 1200.5; if not, the separate petition shall be set for hearing at least 10 days after the date on which it is filed, and if the original petition has not already been heard it shall be continued until that date and heard at the same time.

SEC. 14.5. Section 644 of the Probate Code is amended to read:

644. Upon the filing of any petition provided for by this article, the executor or administrator, or the petitioner if no executor or

administrator has been appointed, shall cause an inventory and appraisement to be prepared in the manner prescribed by law and filed within such time as the court may allow. The court shall appoint an inheritance tax referee as provided in Section 605, if none has been appointed previously.

SEC. 15. Section 650 of the Probate Code, as amended by Chapter 730 of the Statutes of 1979, is amended to read:

650. (a) A surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file a petition in the superior court in the county in which the estate of the deceased spouse may be administered alleging that administration of all or a part of the estate is not necessary for the reason that all or a part of the estate is community property or quasi-community property passing or belonging to the surviving spouse. The petition shall be verified and shall set forth the following information:

(1) The facts necessary to determine the county in which the estate of the deceased spouse may be administered if proceedings for the administration of the estate are not pending.

(2) The names, ages, and addresses of the heirs, devisees, and legatees of the deceased spouse, the names and addresses of all persons named as executors of the will of the deceased spouse, and the names and addresses of all persons appointed as executors of the will or administrators of the estate of the deceased spouse, which are known to the petitioner.

(3) A description of the property of the deceased spouse which the petitioner alleges is community property or quasi-community property passing to the surviving spouse, including the trade or business name of any community property or quasi-community property business which the deceased spouse was operating or managing at the time of death.

(4) The facts upon which the petitioner bases the allegation that all or a part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse.

(5) A description of any interest in the community property which the petitioner requests the court to confirm to the surviving spouse as belonging to the surviving spouse pursuant to Section 201 or 201.5.

(b) If the petitioner bases the allegation that all or part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse upon the will of the deceased spouse, a copy of the will shall be attached to the petition.

(c) To the extent of the election, this section shall not apply if the petitioner has elected to have the interest of the deceased spouse in the community property or both the interest of the deceased spouse and the surviving spouse in the community property or quasi-community property administered under this division

pursuant to subdivision (b) of Section 202.

(d) The action authorized by this section may be taken by a guardian or conservator without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

SEC. 16. Section 653 of the Probate Code is amended to read:

653. If proceedings for the administration of the estate of a deceased spouse are pending at the time a petition described in Section 650 is filed or, if the proceedings are not pending and if the petition is not joined with a petition for probate of the will or administration of the estate of the deceased spouse, the clerk shall set the petition for hearing and post notice of the hearing for the period and in the manner prescribed by Section 1200. At least 20 days prior to the date of the hearing on the petition, a notice of the hearing and a copy of the petition shall be personally served upon the following persons by the petitioner or mailed, postage prepaid, by the petitioner to the following persons, addressed to the addresses given in their request for special notice or notice of appearance, the addresses of their offices or places of residence, or, if neither of these addresses are known to the petitioner, the county seat of the county in which the proceedings are pending:

(1) Any personal representative who is not the petitioner.

(2) All legatees, devisees, and known heirs of the deceased spouse.

(3) All persons or their attorneys who have requested special notice pursuant to Section 1202.

(4) All persons or their attorneys who have given notice of appearance.

(5) The Attorney General, addressed to the office of the Attorney General at Sacramento, California, if the petitioner bases the allegation that all or part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse upon the will of the deceased spouse and the will involves or may involve (i) a testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state, or (ii) a bequest or devise for a charitable purpose without an identified legatee, devisee, or beneficiary.

(6) All other persons who are named in the will of the deceased spouse, if the petitioner bases the allegation that all or part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse upon the will.

SEC. 17. Section 655 of the Probate Code is amended to read:

655. (a) If the court finds that all of the property is community property or quasi-community property, or both, passing to the surviving spouse, it shall issue an order describing the property, determining that the property is community property or quasi-community property, or both, passing to the surviving spouse, and determining that no administration is necessary. If the petition

filed under Section 650 includes a description of the interest of the surviving spouse in the community property or quasi-community property, or both, which belongs to the surviving spouse pursuant to Section 201 or 201.5 and the court finds that the interest belongs to the surviving spouse, it shall issue an order describing the property and confirming the ownership of the surviving spouse.

(b) If the court finds that all or a part of the property is not community property or quasi-community property passing to the surviving spouse, it shall do all of the following:

(1) Issue an order describing any property which is community property or quasi-community property passing to the surviving spouse, determining that the property passes to the surviving spouse, and determining that no administration of the property is necessary; and issue any further orders which may be necessary to cause delivery of the property or its proceeds to the surviving spouse.

(2) If the petition filed under Section 650 includes a description of the interest of the surviving spouse in the community property or quasi-community property, or both, which belongs to the surviving spouse pursuant to Section 201 or 201.5 and the court finds that the interest belongs to the surviving spouse, issue an order describing the property and confirming the ownership of the surviving spouse and any further orders which may be necessary to cause ownership of the property to be confirmed in the surviving spouse.

(3) Issue an order that the property which is not community property or quasi-community property passing to the surviving spouse is subject to administration under this division.

(c) Upon becoming final, an order (1) determining that property is community property or quasi-community property passing to the surviving spouse or (2) confirming the ownership of the surviving spouse of property belonging to the surviving spouse under Section 201 or 201.5 shall be conclusive on all persons, whether or not they are in being.

SEC. 18. Section 656 of the Probate Code is amended to read:

656. In any case in which the court finds that all or a part of the community property or quasi-community property passing to the surviving spouse consists of a business or an interest in a business which the deceased spouse was operating or managing at the time of death, it shall require the surviving spouse to file a list of all of the known creditors of the business and the amount owing to each of them. The court may issue any order necessary to protect the interests of the creditors of the business, including the filing of an undertaking.

SEC. 18.1. Section 662 of the Probate Code is amended to read:

662. When the petition is filed, the clerk shall set it for hearing by the court and the petitioner shall give notice thereof for the period and in the manner required by Section 1200.5.

SEC. 18.2. Section 662 of the Probate Code is amended to read:

662. When the petition to select and set apart a homestead is filed, the clerk shall set it for hearing by the court and the petitioner

shall give notice thereof for the period and in the manner required by Section 1200.5.

SEC. 18.3. Section 681 of the Probate Code is amended to read:

681. The allowance provided for in Section 680 may be granted before the inventory is filed, either by the court or a judge thereof; in which case it shall continue until modified by the court. After the inventory is filed, the court may grant the allowance, or may modify any allowance made before the filing of the inventory, upon the petition of any person interested and a hearing, after notice is given by the petitioner for the period and in the manner required by Section 1200.5.

SEC. 18.4. Section 718.5 of the Probate Code is amended to read:

718.5. After the time for filing creditor's claims has expired, or earlier for good cause shown, the executor or administrator, with the approval of the court, may compromise, compound, or settle any claim or demand by or against the estate or any suit brought by or against the executor or administrator as executor or administrator, by the transfer of specific assets of the estate or otherwise. To obtain approval, the executor or administrator shall file a verified petition with the clerk showing the advantage of the compromise, composition, or settlement. The clerk shall set the petition for hearing by the court and notice thereof shall be given by the executor or administrator for the period and in the manner required by Section 1200.5. If under this section the court authorizes the tranfer of real property of the estate, conveyances shall be executed by the executor or administrator in the same manner as provided in Section 786 and the conveyances shall have the same force and effect as conveyances executed pursuant to that section, and a certified copy of the order authorizing the transfer shall be recorded in the office of the recorder of the county in which the real property or any portion thereof lies. After the completion of the approved compromise, the executor or administrator shall incur no liability to anyone as a result of the approved compromise, composition, or settlement.

SEC. 18.5. Section 718.7 of the Probate Code is amended to read:

718.7. If it shall appear to be to the advantage of the estate for the executor or administrator to give a partial satisfaction of a mortgage or cause a partial reconveyance to be executed by a trustee under a trust deed held by the estate, the court may authorize the partial satisfaction or the partial reconveyance upon such terms and conditions as may be imposed by the court upon the petition of the executor or administrator or of any person interested in the estate, after notice of the hearing given by the petitioner for the period and in the manner required by Section 1200.5, but no authorization shall be necessary if the partial satisfaction or partial reconveyance is executed pursuant to the terms of the mortgage or trust deed held by the estate.

SEC. 18.6. Section 755 of the Probate Code is amended to read:

755. Except as provided by Sections 770, 771, and 772, all sales of

property shall be reported to the court and confirmed by the court before title to the property passes. The report shall be verified. The report and a petition for confirmation of the sale shall be made within 30 days after each sale. The clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by Section 1200. The executor or administrator shall give notice of the hearing in the manner specified in Section 1200.5.

SEC. 18.7. Section 771 of the Probate Code is amended to read:

771. Stocks, bonds, voting trust certificates, stock warrants or subscription rights, land trust certificates, certificates of beneficial interest in trusts, investment trust certificates, mortgage participation certificates, or any other securities, or certificates of deposit for any of the foregoing, may be sold, or may be surrendered for redemption or conversion, and title thereto passed without the necessity for confirmation, upon obtaining an order of the court. A petition for the order shall be filed with the clerk, who shall set the same for hearing by the court and shall give notice thereof for the period and in the manner required by Section 1200. The petitioner shall give notice of the hearing in the manner specified in Section 1200.5, but the court or judge may order the notice to be given for a shorter period or dispensed with. The order shall fix the terms and conditions of sale, and when the minimum selling price is fixed or when the securities are to be sold upon an established stock or bond exchange, or surrendered for redemption or conversion, no notice of sale or of the redemption or conversion need be given.

This section shall not be applicable to the sale of note or notes secured by a mortgage or deed of trust unless the note or notes have been authorized or permitted to be issued by the Commissioner of Corporations, or have been made by a public utility subject to the provisions of the Public Utilities Act.

Investment certificates and withdrawable shares (but not guarantee stock) of state-chartered savings and loan associations doing business in this state and savings accounts and share accounts of federal savings and loan associations may be sold, or may be surrendered for withdrawal, and title thereto passed without the necessity for notice, confirmation or an order of court if an amount of money is obtained upon such sale or withdrawal not less than the value of such investment certificates or withdrawable shares, as such value is defined in Section 5070 of the Financial Code, or equal to not less than the amount paid on a savings account or a share account in a federal savings and loan association, plus earnings credited thereon, less lawful deductions therefrom.

SEC. 18.8. Section 772 of the Probate Code is amended to read:

772. Except as provided in Sections 757, 770, and 771, personal property may be sold only after notice is given by the clerk in the manner provided in Section 1200 and by the executor or administrator in the manner specified in Section 1200.5. If it is shown that it will be for the best interests of the estate, the court may

shorten the time of notice to no less than five days, and such notice must then be posted, or published pursuant to Section 6061 of the Government Code in the county in which the proceedings are pending, at least five days before the sale, or, in the case of a private sale, at least five days before the day on or after which the sale is to be made. Notice given pursuant to this section shall contain the time and place of sale, and a brief description of the property to be sold and stating whether the sale is to be a private or public sale. In case of a private sale the notice must state a place at which bids or offers will be received and a day on or after which the sale will be made and the sale must not be made before that day but must be made within one year thereafter. Public sales, must be made at the courthouse door, or at some other public place, or at the residence of the decedent; but no public sale shall be made of any personal property which is not present at the time of sale, unless the court shall otherwise order. A public sale may be postponed from time to time if the executor or administrator deems it for the interests of all persons concerned, such postponement not to exceed in all three months. In case of such postponement, notice thereof must be given by public declaration at the time and place appointed for the sale.

Title to tangible personal property sold at public sale passes upon receipt of the purchase price and delivery of the property to the buyer but the executor or administrator is responsible for the actual value of the property unless, after making a sworn return, and on proper showing, the court shall approve the sale.

SEC. 18.9. Section 773 of the Probate Code is amended to read:

773. Personal property may be sold for cash, or upon credit. If a sale is made upon credit, not less than 25 percent of the purchase price shall be paid in cash at the time of sale. The executor or administrator shall take the note of the purchaser for the balance of the purchase money, with a pledge or chattel mortgage of the personal property sold, to secure the payment of the balance, or shall enter into a conditional sale contract under which title is retained until the balance is paid. The terms of the note and pledge or chattel mortgage or contract shall be approved by the court at the time of confirmation of sale. Notwithstanding the foregoing provisions of this section, the court may by order authorize a sale on credit on terms providing for less than 25 percent of the purchase price to be paid in cash at the time of the sale, or may waive or modify the requirement that a lien or other security interest shall be retained or taken to secure payment of the balance of the purchase price, when, in the opinion of the court, the terms are for the best interests of the estate and the property to be sold is of such a nature that it is impracticable to sell the property for a larger cash payment at time of sale, or to retain a lien or other security interest therein.

The order of the court shall fix the terms and conditions of the sale. A petition for an order shall be filed by the executor or administrator with the clerk, who shall set the matter for hearing by the court and shall give notice thereof for the period and in the manner required

by Section 1200. The executor or administrator shall give notice of the hearing in the manner specified in Section 1200.5 and in addition to the notice therein required, notice of the hearing shall be given by mail at least 10 days prior to the hearing to all heirs, devisees and legatees named in the petition for probate of the will or for letters of administration, as the case may be.

SEC. 18.10. Section 775 of the Probate Code is amended to read:

775. If, after the confirmation of a sale of personal property pursuant to Section 755, the purchaser neglects or refuses to comply with the terms of the sale, the court, on motion of the executor or administrator, and after notice to the purchaser in the manner directed by the court, may vacate the order of confirmation and order a resale of the property. Notice of the resale shall be given by the clerk in the manner specified in Section 1200 and proceedings thereafter shall be taken in the manner provided in this chapter for a sale of personal property. Notice of the resale shall also be given by the executor or administrator in the manner specified in Section 1200.5. If the amount realized on the resale does not cover the bid and the expenses of the previous sale, the defaulting purchaser at the previous sale is liable to the estate for any deficiency.

SEC. 18.11. Section 810 of the Probate Code is amended to read:

810. To enter into an agreement to sell, or to give an option to purchase, a mining claim or claims, or real property worked as a mine, belonging to the estate of a decedent, the executor or administrator or any person interested in the estate shall file a verified petition describing the property in question, stating the terms and general conditions of the proposed agreement or option, showing the advantage or advantages that may accrue to the estate from entering into it, and praying for an order authorizing or directing its execution. The clerk shall set the petition for hearing by the court and cause notice thereof to be given for the period and in the manner required by Sections 780 and 1200. The executor or administrator shall cause notice of the hearing to be given in the manner specified in Section 1200.5.

SEC. 18.12. Section 831 of the Probate Code is amended to read:

831. The executor or administrator, or any person interested in the estate, shall file a verified petition showing the particular purpose or purposes for which the order is sought, the necessity for or advantage to accrue from the order, the amount of money proposed to be raised, if any, the rate of interest to be paid, the length of time the note or notes are to run, and a general description of the property proposed to be mortgaged or subjected to such deed of trust or other lien. The clerk shall set the petition for hearing by the court and the petitioner give notice thereof for the period and in the manner required by Section 1200.5.

SEC. 18.13. Section 841 of the Probate Code is amended to read:

841. To obtain an order pursuant to Section 840, the executor or administrator, or any person interested in the estate, shall file a verified petition showing the advantage to accrue from giving the

lease, a general description of the property proposed to be leased, and the term, rental, and general conditions of the proposed lease. The clerk shall set the petition for hearing by the court and cause notice thereof to be given for the period and in the manner required by Sections 780 and 1200; provided, that if the will authorizes or directs the personal representative to lease property, the notice specified in Section 780 is not required. The executor or administrator shall cause notice to be given in the manner specified in Section 1200.5.

SEC. 18.14. Section 860 of the Probate Code is amended to read:

860. Whenever it shall appear to be to the advantage or best interests of the estate to exchange any property of the decedent for other property, the court may authorize the exchange, upon such terms and conditions as it may prescribe, which may include the payment or receipt of part cash by the executor or administrator, upon the petition of the executor or administrator or of any person interested in the estate, and after notice of the hearing given for the period and in the manner required by Section 1200. The executor or administrator shall cause notice of the hearing to be given in the manner specified in Section 1200.5. When the petition is for authorization to exchange stocks, bonds, or other securities, as defined in Section 771 of this code, for different stocks, bonds, or other securities, the court or judge, upon a showing of good cause, may order the notice be given for a shorter period or that it be dispensed with.

SEC. 19. Section 904 of the Probate Code is amended to read:

904. Any executor or administrator, at any time after four months from the issuance of letters testamentary or of administration, and upon such notice to the persons interested in the estate as the court or a judge thereof shall require, may petition the court for an allowance upon his or her commissions; and on the hearing the court shall make an order allowing such portion of the commissions, for services rendered up to that time, as the court shall deem proper, and the portion so allowed may be thereupon charged against the estate.

At least 10 days before the hearing of the petition notice of the hearing must be served upon the devisees and legatees whose interest in the estate is affected by the payment of such commissions, to the heirs of the decedent in intestate estates, to the State of California if any portion of the estate is to escheat to it, and to persons who have filed a request for special notice pursuant to Section 1202. Such notice shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, at his or her last known mailing address.

SEC. 20. Section 911 of the Probate Code is amended to read:

911. Any attorney who has rendered services to an executor or administrator, at any time after four months from the issuance of letters testamentary or of administration, may petition the court for an allowance upon his or her fees; and on the hearing the court shall

make an order requiring the executor or administrator to pay such attorney out of the estate such compensation, on account of services rendered up to that time, as the court shall deem proper, and such payment shall be made forthwith.

At least 10 days before the hearing of the petition notice of the hearing must be served upon the executor or administrator when he or she is not the petitioner, upon the devisees and legatees whose interest in the estate is affected by the payment of such fees, to the heirs of the decedent in intestate estates, to the State of California if any portion of the estate is to escheat to it, and to persons who have filed a request for special notice pursuant to Section 1202. Such notice shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, at his or her last known mailing address.

SEC. 21. Section 922 of the Probate Code is amended to read:

922. At any time after one year from the date of issuance of letters, and upon petition of any person interested in the estate, the court shall order the executor or administrator to render a full and verified account and report of his or her administration, which shall include all of the matters mentioned in the previous section. The administrator or executor must render a final account, and pray a settlement of the administration, whenever there are sufficient funds in his or her hands for the payment of all debts and the estate is in a proper condition to be closed. If the administrator or executor fails to present the account the court or judge must compel the accounting by attachment. Any person interested in the estate may apply for and obtain an attachment, but no attachment shall issue unless a citation has first been issued, served and returned, requiring the executor or administrator to appear and show cause why an attachment should not issue.

SEC. 22. Section 926 of the Probate Code is amended to read:

926. When an account is rendered for settlement, the clerk shall set the account for settlement by the court. If the account is for a final settlement, and a petition for the final distribution of the estate is filed with the account, the notice of settlement shall so state, and on the settlement of the account, distribution of the estate to those entitled thereto may be had immediately, without further notice or proceedings.

At least 10 days before the hearing of the account and petition, notice of the hearing shall be served by the executor or administrator upon the devisees and legatees whose interest in the estate is affected by such account and petition, to the heirs of the decedent in intestate estates, to the State of California if any portion of the estate is to escheat to it, and to persons who have filed a request for special notice pursuant to Section 1202. Such notice shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, at his or her last known mailing address.

SEC. 23. Section 1000 of the Probate Code is amended to read:

1000. When two months have elapsed after the first publication of notice to creditors and upon bond—or with or without bond, as the court determines, when the time for filing or presenting claims has expired and all uncontested claims have been paid or are sufficiently secured by mortgage, or otherwise, but the estate is not in a condition to be finally closed and distributed—the executor or administrator, or any heir, devisee, or legatee, or the assignee, grantee, or successor in interest of any heir, devisee, or legatee, may petition the court for distribution of a legacy, devise, or share of the estate or any portion or portions thereof to which he or she is entitled or a payment on account of the legacies to the heirs, devisees, or legatees or any assignees, grantees, or successors in interest or where there are priorities, to those of the class or classes having priorities; or, if the decedent was a nonresident and left a will which has been duly proved or allowed in the state of his or her residence, and the will has been admitted to probate in this state pursuant to Article 4 (commencing with Section 360) of Chapter 1 of Division 3, or if the decedent died intestate, and an administrator has been duly appointed and qualified in the state of his or her residence, and it is necessary, in order that the estate or any part thereof may be distributed according to the will, or it is for the best interests of the estate, that any part of the estate in this state should be delivered to the executor or administrator in the state of the decedent's residence, the executor or administrator may petition the court for an order authorizing the delivery of such portion of the estate as the court shall deem safe and proper and for the best interests of the estate, to the executor or administrator in the state of decedent's residence.

The clerk shall set the petition for hearing by the court. At least 10 days before the hearing of the petition, notice of the hearing must be served upon the executor or administrator when he or she is not the petitioner, upon the devisees and legatees whose interest in the estate is affected by such petition for distribution, to the heirs of the decedent in intestate estates, to the State of California if any portion of the estate is to escheat to it, and to persons who have filed a request for special notice pursuant to Section 1202. Such notice shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, at his or her last known mailing address. Any person interested in the estate or any coexecutor or coadministrator may resist the petition.

SEC. 24. Section 1020 of the Probate Code is amended to read:

1020. Immediately upon the final settlement of the accounts of the executor or administrator, or at any subsequent time, upon the petition of the executor or administrator, or of any heir, devisee or legatee, or his or her assignee, grantee or successor in interest, the court must proceed to distribute the residue of the estate among the persons entitled thereto. Any person interested in the estate or any coexecutor or coadministrator may resist the petition.

At least 10 days before the hearing of the petition notice of the

hearing must be served upon the executor or administrator when he or she is not the petitioner, upon the devisees and legatees whose interest in the estate is affected by such petition, to the heirs of the decedent in intestate estates, to the State of California if any portion of the estate is to escheat to it, and to persons who have filed a request for special notice pursuant to Section 1202. Such notice shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, at his or her last known mailing address.

SEC. 25. Section 1027 of the Probate Code is amended to read:

1027. Executors or administrators, public or otherwise, shall petition for distribution of an estate at the time of filing a final account. If the court, at the time set for the hearing of the final account, or such time thereafter to which the matter may be continued, does not distribute the entire balance of the estate remaining for distribution to known heirs, devisees, or legatees entitled to succeed thereto, it must distribute to the State of California that portion of the estate not distributed to the known heirs, devisees, or legatees. Insofar as practical, any real property or tangible personal property shall be converted to money prior to transmittal to the state.

At least 10 days before the hearing of the petition notice of the hearing must be served upon the devisees, and legatees whose interest in the estate is affected by such petition, to the heirs of the decedent in intestate estates, to the State of California if any portion of the estate is to escheat to it, and to persons who have filed a request for special notice pursuant to Section 1202. The notice shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, at his or her last known mailing address.

Whenever it appears that the estate or any portion thereof is to be distributed to the State of California because there are no known heirs or that the estate or any portion thereof is to be distributed to heirs, devisees, or legatees whose whereabouts are unknown, the executor or administrator must serve the State Controller, personally or by mail, with a copy of the petition for distribution, together with notice of the hearing thereon, specifying the date of the hearing, and a copy of the latest account filed with the court, at least 30 days prior to the date of the hearing.

If the court distributes the estate or any portion thereof to the State of California, and the distributing clause contains words otherwise creating a trust in favor of certain unknown or unidentified persons as a class, the distribution shall vest in the State of California both legal and equitable title to the property so distributed; saving, however, the right of claimants to appear and claim the estate or any portion thereof, as in this section provided.

Upon the rendition of a decree of distribution, any money distributed to the State of California shall forthwith be delivered to the State Treasurer by the executor or administrator, and all other

personal property so distributed shall forthwith be delivered to the State Controller for deposit in the State Treasury.

A certified copy of the decree of distribution and of any court orders amending the decree of distribution shall be delivered to the State Controller by the executor or administrator at the time of making any remittance in connection with an estate.

No deposit of property in an estate shall be made in the county treasury by any executor or administrator, public or otherwise, if the estate has previously been distributed to the State of California pursuant to this section, but the estate shall be transmitted forthwith to the State Treasurer or State Controller as provided in this section.

The property so distributed shall be held by the State Treasurer for a period of five years from the date of the decree making the distribution, within which time any person may claim the estate or any part thereof in the manner provided by Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

Any person who does not appear and claim, as herein required, shall be forever barred, and such property, or so much thereof as is not claimed, shall vest absolutely in the state.

SEC. 25.1. Section 1041 of the Probate Code is amended to read:

1041. The order may be made on the petition of the executor or administrator or of any person interested in the estate. When the petition is filed, the clerk shall set the petition for hearing by the court, and the petitioner shall give notice thereof for the period and in the manner required by Section 1200.5. Any person interested in the estate may appear and contest the petition by filing written objections thereto.

SEC. 25.2. Section 1080 of the Probate Code is amended to read:

1080. Anytime after first publication of notice to creditors and prior to the time a petition for final distribution has been filed, the executor or administrator, or any person claiming to be an heir of the decedent or entitled to distribution of the estate or any part thereof, may file a petition setting forth his or her claim or reason and praying that the court determine who are entitled to distribution of the estate. The clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by Section 1200. At least 10 days before the date set for the hearing of the petition by the court, the petitioner also shall cause notice of the hearing thereof to be mailed to the executor or administrator and to all legatees and devisees and to all known heirs of the decedent, and to all persons (or their attorneys, if they have appeared by attorney) who have requested notice as provided in Section 1202 of this code, or who have given notice of appearance in person or by attorney, addressed to them at their respective post office addresses given in their requests for special notice or notice of appearance, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such persons. Any person may appear and file a written statement setting forth his

interest in the estate. No other pleadings are necessary and the allegations of each claimant shall be deemed to be denied by each of the other claimants to the extent that they conflict with any claim of the latter.

Whenever any estate involves, or may involve, a charitable trust, other than a charitable trust with a designated trustee which may lawfully accept such trust or involves or may involve a bequest or devise for a charitable purpose without an identified legatee, devisee, or beneficiary thereof, or an escheat to the State of California, the Attorney General shall be deemed to be a person entitled to distribution within the meaning of this section and shall be entitled to file the petition referred to in this section and shall be given written notice of the hearing in the same manner as legatees and devisees.

SEC. 25.3. Section 1120 of the Probate Code is amended to read:

1120. (a) Except as otherwise provided in subdivision (c), when a trust created by a will continues after distribution, the superior court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction for the purpose of determining to whom the property shall pass and be delivered upon final or partial termination of the trust, to the extent that the determination is not concluded by the decree of distribution, of settling the accounts and passing upon the acts of the trustee, of authorizing the trustee to accept additions to the trust from sources other than the estate of the decedent, and for the other purposes hereinafter set forth. Any trustee appointed by will, or appointed to execute a trust created by will, may, from time to time pending the execution of the trust, or at the termination thereof, render for settlement his or her accounts and report his or her acts as trustee, before the superior court in which the will was probated. For that purpose, the trustee shall present to the court a verified account and report, setting forth the accounts in detail, reporting his or her acts as trustee, and showing the condition of the trust estate. If the trustee dies or becomes incompetent, the account and report shall be presented by the trustee's executor, administrator, guardian, or conservator. In the event the trustee dies or becomes incompetent, and there is no executor, administrator, guardian, or conservator appointed for the trustee's estate, or in the event the trustee absconds, the court may compel the attorney for the deceased, incompetent, or absconding trustee to present the account and report to the extent that the attorney has information or records available for that purpose. The account and report of the attorney need not be verified. A fee shall be allowed to the attorney by the court for this service.

The trustee may also petition such court, from time to time, for instructions as to the administration of the trust for authority to accept additions to the trust from any source or sources other than the estate of the decedent, and for authority to exercise the powers authorized by Section 1120.2 of this code. The court may hear the petition and instruct or authorize the trustee by order rendered

before or after any distribution to the trustee. When the trustee files the petition before any distribution of the estate to the trustee, the trustee shall, in addition to any other notice required, cause notice of the hearing to be mailed to the personal representative and shall further cause notice of the hearing to be mailed to all persons, including heirs, legatees, and devisees, at their last known address, to whom the court may order notice to be given, and shall, upon filing the petition and before giving notice thereof, secure from the court an order designating the persons in addition to the personal representative and the beneficiaries to whom the court requires that notice be given, or an order that notice to the personal representative and the beneficiaries is the only notice that shall be required.

When it appears from the allegations of the petition that the trustee seeks instructions to exercise a power not conferred upon the trustee or seeks authority to exercise the powers authorized by Section 1120.2, the petition shall set forth the particulars of and the necessity for the action sought to be taken.

The clerk shall set the hearing upon the account and report or petition for settlement or instructions. The trustee shall cause notice of the hearing to be given to the beneficiaries, including all persons in being who shall or may participate in the corpus or income of the trust, at their last known addresses, as provided in Section 1200.5, whether they have requested special notice or given notice of appearance or not. In addition to the above notice, when the petition relates to the exercise of a power not conferred or seeks authority to exercise the powers authorized by Section 1120.2, a copy of the petition shall be attached to and mailed with copies of the notice which are mailed and the court or judge shall, at least 10 days before the return day, appoint a suitable person who shall appear and act as guardian ad litem of any person or persons of a designated class, who are not ascertained, or who are not in being, and who may become beneficiaries or may so participate in the trust. None of the provisions of Section 373 of the Code of Civil Procedure shall apply to the appointment.

(b) In addition to the provisions of subdivision (a), the personal representative of the decedent's estate, prior to final distribution, or the trustee, beneficiary, or remainderman, before or after final distribution, may petition the superior court to amend or conform the trust provisions of the decedent's will in the manner required to qualify the decedent's estate for the charitable estate tax deduction permitted by federal law. The petition may include a request to add to the trust provisions of the decedent's will the mandatory governing instrument requirements for a charitable remainder trust, as required by final regulations and rulings of the United States Internal Revenue Service. Notice of the petition shall be given to the Attorney General. No amendment or conformation may be ordered by the court without having first received written agreement to the proposed changes or disclaimer of interest from all interested parties

in the trust. The execution of an agreement shall not be construed to be a contest under any provisions of the will prohibiting will contests. The existence of a spendthrift or similar protective provision in the trust shall not make this subdivision inapplicable to that trust.

(c) Unless the testator provides otherwise in the will, a trust created by a will executed on or after July 1, 1977, shall not be subject to the continuing jurisdiction of the superior court, however Article 2 (commencing with Section 1138) of this chapter shall be applicable to the trust to the extent that the will or the article does not provide otherwise.

SEC. 26. Section 1142.3 is added to the Probate Code, to read:

1142.3. The public administrator may receive additional compensation if any person entitled to appointment as the personal representative in preference to the public administrator has been given notice under Section 441 of the public administrator's petition for appointment, and that individual has not petitioned for appointment in preference to the public administrator. The additional compensation shall be the difference between the reasonable cost of the administration of the estate and the commissions awarded under Sections 901 and 902. Additional compensation may also be awarded in estates in which the public administrator has been appointed after the resignation or removal of the personal representative.

SEC. 27. Section 1172 of the Probate Code is amended to read:

1172. If the person who files the petition provided for in Section 1170 files an affidavit with the petition stating that he or she has no reason to believe that there is any opposition to, or contest of, the petition, the court may act ex parte. In any other case, the clerk shall set the petition for hearing by the court and give notice thereof in the manner specified in Section 1200 and the person who filed the petition shall cause notice of the hearing to be given in the manner specified in Section 1200.5.

SEC. 28. Section 1191 of the Probate Code is amended to read:

1191. The clerk shall set the petition for hearing by the court and give notice thereof in the manner provided in Section 1200. The petitioner shall cause notice of the hearing to be given in the manner specified in Section 1200.5.

SEC. 29. Section 1200 of the Probate Code is amended to read:

1200. (a) Upon the filing of:

(1) A petition for the sale of stocks or bonds;

(2) A petition for confirmation of a sale or a petition to grant an option to purchase real property;

(3) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine; or

(4) A petition for leave to lease or to exchange property, or to institute an action for the partition of property; and in any other proceeding under this code in which notice is required and no other

time or method is prescribed by law or by court or judge, the clerk shall set the same for hearing by the court and shall give notice of the proceeding by causing a notice of the time and place of hearing thereof to be posted at the courthouse of the county where the proceedings are pending, at least 10 days before the day of hearing, giving the name of the estate, the name of the petitioner and the nature of the application, referring to the petition for further particulars, and stating the time at which the application will be heard.

(b) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(c) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

SEC. 30. Section 1200.5 is added to the Probate Code, to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 of this code for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale or a petition to grant an option to purchase real property.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money.

(11) A report of appraisers concerning a homestead.

(12) An account of an executor or administrator or trustee.

(13) A petition for partial or ratable or preliminary or final distribution.

(14) A petition for the delivery of the estate of a nonresident.

(15) A petition for determination of heirship or interests in an

estate.

(16) A petition of a trustee for instructions.

(17) A petition for the appointment of a trustee.

(18) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(b) At least 10 days before the time set for the hearing of the petition, account or report, the petitioner or person filing the account or desiring the confirmation of a report of appraisers, shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section shall not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) The notice required by this section shall be in addition to the notice, if any, required to be given in the manner specified in Section 1200.

SEC. 31. Section 1200.5 is added to the Probate Code, to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 of this code for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale or a petition to grant an option to purchase real property.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money.

(11) An account of an executor or administrator or trustee.

(12) A petition for partial or ratable or preliminary or final distribution.

(13) A petition for the delivery of the estate of a nonresident.

(14) A petition for determination of heirship or interests in an estate.

(15) A petition of a trustee for instructions.

(16) A petition for the appointment of a trustee.

(17) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(b) At least 10 days before the time set for the hearing of the petition or account, the petitioner or person filing the account shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section shall not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) The notice required by this section shall be in addition to the notice, if any, required to be given in the manner specified in Section 1200.

SEC. 32. It is the intent of the Legislature, if this bill and

Assembly Bill 2342 are both chaptered and become effective January 1, 1981, both bills amend Section 333 of the Probate Code, and this bill is chaptered after Assembly Bill 2342, that the amendments to Section 333 proposed by both bills be given effect and incorporated in Section 333 in the form set forth in Section 5.7 of this act. Therefore, Section 5.7 of this act shall become operative only if this bill and Assembly Bill 2342 are both chaptered and become effective January 1, 1981, both amend Section 333, and this bill is chaptered after Assembly Bill 2342, in which case Section 5.6 of this act shall not become operative.

SEC. 33. It is the intent of the Legislature, if this bill and Assembly Bill 2184 are both chaptered and become effective January 1, 1981, both bills amend Section 662 of the Probate Code, and this bill is chaptered after Assembly Bill 2184, that the amendments to Section 662 proposed by both bills be given effect and incorporated in Section 662 in the form set forth in Section 18.2 of this act. Therefore, Section 18.2 of this act shall become operative only if this bill and Assembly Bill 2184 are both chaptered and become effective January 1, 1981, both amend Section 662, and this bill is chaptered after Assembly Bill 2184, in which case Section 18.1 of this act shall not become operative.

SEC. 34. It is the intent of the Legislature, if this bill and Assembly Bill 2184 are both chaptered and become effective January 1, 1981, both bills amend Section 1200 of the Probate Code, and this bill is chaptered after Assembly Bill 2184, that the amendments to Section 1200 proposed by both bills be given effect. To accomplish that result, Section 31 of this act, which incorporates the amendments proposed by Assembly Bill 2184 to Section 1200, shall become operative only if this bill and Assembly Bill 2184 are both chaptered and become effective January 1, 1981, and this bill is chaptered after Assembly Bill 2184, in which case Section 30 of this act shall not become operative.

CHAPTER 956

An act to amend Sections 44243, 44244, 44421, 44422, and 44940 of, and to add Sections 44242.5, 44438, and 44940.5 to, the Education Code, relating to certificated employees.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 44242.5 is added to the Education Code, to read:

44242.5. (a) Each allegation of an act or omission by an applicant for, or holder of, a credential for which he or she may be privately

admonished or for which his or her application or credential may be denied, suspended, or revoked shall be presented to the Committee of Credentials.

(b) The committee shall investigate each allegation. Such investigation shall include, but not be limited to, all of the following:

(1) Investigation of the fitness and competence of the applicant or credential holder to perform the duties authorized by the credential for which he or she has applied or which he or she presently holds.

(2) Determination of probable cause for private admonition or for denial, suspension, or revocation of the credential.

(A) If the committee determines that probable cause for private admonition, or for denial, suspension, or revocation of the credential does not exist, the committee shall terminate the investigation.

(B) If the committee determines that probable cause for private admonition, or denial, suspension, or revocation of the credential exists, the committee shall initiate an adjudicatory hearing, as prescribed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code, by filing an accusation or statement of issues.

(3) Conduct of a meeting or hearing, in accordance with Section 44244, to consider allegations against an applicant or credential holder.

(c) Upon completion of its investigation, the committee shall report its actions and decisions to the commission, including its findings as to probable cause, and if probable cause exists, its recommendations as to private admonition, or denial, suspension, or revocation of the credential.

SEC. 2. Section 44243 of the Education Code is amended to read:

44243. The commission may assign to the Committee of Credentials such administrative duties as it may see fit relating to the granting, issuance, suspension, and revocation of credentials and life diplomas; and to the private admonition of an applicant for, or the holder of, a credential. The commission shall supervise the work of the committee and shall provide statements of policy relative to committee operation and procedures as it deems appropriate to do so.

SEC. 3. Section 44244 of the Education Code is amended to read:

44244. At least 30 days prior to any Committee of Credentials meeting or hearing at which the application or credential of a certified employee is to be considered, the committee shall notify the certified employee of the specific allegations of misconduct for which the application or credential may be denied, suspended, or revoked, or for which the employee may be privately admonished, in ordinary and concise language setting forth the acts or omissions charged and the statutes or rules violated. Supplemental allegations of misconduct shall be sent to the certified employee 30 days prior to such meeting or hearing. The portions of the investigation of the original or supplemental allegations which constitute the basis for

such allegations shall be open to inspection and copying by such employee and his or her attorney. The statement of the allegations shall inform such employee that such allegations, if they are true, are sufficient to cause his or her application or credential to be denied, suspended, or revoked, or to cause him or her to be privately admonished.

The committee shall order the investigation of allegations of misconduct to be discontinued if probable cause for adverse action is not found, or if a meeting or hearing on such allegations is not commenced within one year of the date of notification of the original allegations to such employee. An extension for one six-month period may be made by the chairman of the commission upon the submission to the committee of a statement of the cause or causes for such extension.

The recommended decision of the committee shall be in writing and a copy of such decision shall be delivered to the certified employee personally or sent to him or her by registered mail within 30 days after the meeting or hearing together with specific information relative to any administrative hearing to which such employee is entitled.

SEC. 4. Section 44940 of the Education Code is amended to read:

44940. Whenever any certificated employee of a school district is charged with the commission of any sex offense as defined in Section 44010 by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district shall immediately place the employee upon compulsory leave of absence for a period of time extending for not more than 10 days after the date of the entry of the judgment in the proceedings. Such employee's teaching or service credential shall be automatically suspended for the same period of time. The governing board of the school district may extend the compulsory leave of absence of the employee beyond such period by giving notice to the employee within 10 days after the entry of judgment in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid his or her regular salary during the period of his compulsory leave of absence if and during such time as he or she furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him or her during the period of the compulsory leave of absence in case the employee is convicted of such charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against the employee are dismissed, the school district shall reimburse the employee for the cost of the bond upon his or her return to service in the school district.

If the employee does not elect to furnish bond, or other security acceptable to the governing board of the district, and if the employee is acquitted of the offense, or the charges against him or her are dismissed, the school district shall pay to the employee his or her full compensation for the period of the compulsory leave of absence upon his or her return to service in the school district.

Whenever any certificated employee of a school district is charged with the commission of any narcotics offense as defined in Section 12912.5, or a violation of Section 261.5 of the Penal Code, Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, of the Health and Safety Code, by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district may immediately place the employee upon compulsory leave in accordance with the procedure in this section.

Any action taken pursuant to this section by a governing board shall be reported immediately to the Commission for Teacher Preparation and Licensing. The commission shall give priority to the investigation and resolution of such cases.

SEC. 4.5. Section 44940.5 is added to the Education Code, to read:

44940.5. Any action taken pursuant to Section 44940 by a governing board shall be reported immediately to the Commission for Teacher Preparation and Licensing. The commission shall give priority to the investigation and resolution of such cases.

SEC. 5. Section 44421 of the Education Code is amended to read:

44421. The Commission for Teacher Preparation and Licensing shall privately admonish, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause which would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

SEC. 6. Section 44422 of the Education Code is amended to read:

44422. Whenever the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing is charged with immoral or unprofessional conduct or evident unfitness for service or persistent defiance of, and refusal to obey, the laws regulating the duties of his position, the commission in its discretion after notifying the person charged of its intention to do so, may require the county board of education of the county in which he is serving or has last served to give notice of, and conduct, a hearing of the charges in the manner prescribed by law for the hearing of charges for private admonition, or for the revocation or suspension of a certificate by a county board of education.

The county board of education, after the hearing, shall report to the commission its findings, and a summary of the evidence, and shall

make a definite recommendation concerning the revocation or suspension of the credential.

Upon receipt of a copy of the findings, summary of evidence, and recommendation, the commission may privately admonish the holder of the credential, or suspend or revoke the credential for the causes stated, or order the charges dismissed.

SEC. 7. Section 44438 is added to the Education Code, to read:

44438. (a) "Private admonition," as used in this article and in Article 3 (commencing with Section 44240) of Chapter 2, is a warning, in writing, to the applicant or credential holder that states in ordinary and concise language the act or omission of the applicant or credential holder and further states that repetition of such act or omission may result in denial, suspension, or revocation of the credential.

(b) The private admonition shall be included in the applicant's or credential holder's file, maintained by the commission.

(c) The applicant's or credential holder's employer at the time of admonition shall receive a copy of the admonition and shall not make such copy accessible or disclose the contents thereof, unless the applicant or credential holder consents, in writing, thereto.

(d) For purposes of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the private admonition is deemed a personnel record within the meaning of subdivision (c) of Section 6254 of the Government Code.

SEC. 8. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 9. Section 4.5 of this act shall be operative only if Senate Bill 1337 of the 1979–80 Regular Session of the Legislature is chaptered after this bill and amends Section 44940 of the Education Code.

CHAPTER 957

An act to add Chapter 8.5 (commencing with Section 19600) to Part 2 of Division 5 of Title 2 of the Government Code, relating to state employees.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Chapter 8.5 (commencing with Section 19600) is added to Part 2 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 8.5. DEMONSTRATION PROJECTS

19600. The board may, directly or through agreement or contract with one or more agencies and other public and private organizations, conduct and evaluate demonstration projects.

Nothing in this section shall infringe upon or conflict with the merit principle as embodied in Article VII of the California Constitution, nor shall any project undertaken pursuant to this act conflict with, or infringe upon the merit principles of the civil service system.

Subject to the provisions of this section, the conducting of demonstration projects shall not be limited by any lack of specific authority under this code to take the action contemplated, or by any provision of this code or any rule or regulation prescribed under this code which is inconsistent with the action, including any law or regulation relating to any of the following:

(a) The methods of establishing qualification requirements for, recruitment for, and appointment to positions.

(b) The methods of classifying positions and compensating employees.

(c) The methods of assigning, reassigning, or promoting employees.

(d) The methods of disciplining employees.

(e) The methods of providing incentives to employees, including the provision of group or individual incentive bonuses or pay.

(f) The hours of work per day or per week.

(g) The methods of involving employees, labor organizations, and employee organizations in personnel decisions.

(h) The methods of reducing overall agency staff and grade levels.

19600.1. "Demonstration project" means a project conducted by the State Personnel Board, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved state personnel management.

19601. No demonstration project may provide for a waiver of any provision of Chapter 10 (commencing with Section 19680).

19602. Before conducting or entering into any agreement or contract to conduct a demonstration project, the board shall do all of the following:

(a) Develop a plan for such project which identifies all of the following:

(1) The purposes of the project.

(2) The types of employees categorized by occupational series, grade, or organizational unit.

(3) The number of employees to be included in the aggregate and by category.

(4) The methodology.

(5) The duration.

(6) The training to be provided.

(7) The anticipated costs.

(8) The methodology and criteria for evaluation.

(9) A specific description of any aspect of the project for which there is a lack of specific authority.

(10) A specific citation to any provision of law, rule or regulation which, if not waived under this section, would prohibit the conducting of the project, or any part of the project as proposed.

(11) A specific description of the potential impact of the plan on the rights and status of the employees included within the plan, including their right of appeal.

(12) Provisions for determining the status, rights, compensation, and benefits of affected employees upon the termination of the project.

(b) Provide notification of the proposed project to employees who are likely to be affected by the project and to each house of the Legislature, at least 180 days in advance of the date any project proposed under this section is to take effect.

(c) Submit the proposed project to public hearings.

(d) Obtain approval from each agency involved in the final version of the plan.

(e) Provide the Legislature with a report at least 90 days in advance of the date the project is to take effect setting forth the final version of the plan as so approved.

19603. Each demonstration project shall involve not more than 1,500 individuals other than individuals in any control groups necessary to validate the results of the project and terminate before the end of the five-year period beginning on the date on which the project takes effect, except that the project may continue beyond the date to the extent necessary to validate the results of the project.

Not more than five active demonstration projects may be in effect at any time.

Subject to the terms of any written agreement or contract between the board and an agency, a demonstration project involving the agency may be terminated by the board or the agency, if either determines that the project creates a substantial hardship on, or is not in the best interests of, the public, employees, or state government.

19604. Employees within a unit with respect to which a labor organization is accorded exclusive recognition shall not be included in any demonstration project unless there is a written agreement with respect to the project between the agency and the organization.

19605. (a) Supervisory employees, as defined in Section 3522.1, shall not be included within any demonstration project unless there has been opportunity for the employees and employee organizations representing supervisory employees to meet and confer with the employer as defined by Section 3522.1.

Supervisory employees included in demonstration projects shall not be denied any rights granted by Sections 3522.1 to 3522.9, inclusive.

(b) Employees within any bargaining unit with respect to which a labor organization has not been accorded exclusive recognition shall not be included within any demonstration project unless the employer first meets and confers in good faith with the employees and any employee organizations representing such employees. "Meet and confer in good faith" means that the employer and employees and employee organizations shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement.

19606. The board shall provide for an evaluation of the results of each demonstration project and its impact on improving public management.

All agencies shall cooperate with and assist the board, to the extent practicable, in any evaluation and provide the board with requested information and reports relating to demonstration projects in their respective agencies.

19607. (a) Nothing in this chapter shall affect any rights of employees included within demonstration projects, except those rights directly pertaining to the subject matter of the demonstration project.

(b) Pursuant to the provisions of this chapter, upon the termination of a demonstration project, employees included in such project shall be given all seniority and other rights which they would have had had they not been in a demonstration project.

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 958

An act to amend Sections 6494 and 6555 of, and to add Sections 6494.1 and 6834.1 to, the Elections Code, relating to elections.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 6494 of the Elections Code is amended to read:

6494. (a) Signers shall certify to the qualifications of the

candidate as follows:

NOMINATION PAPER

I, the undersigned signer for _____ for the _____ Party nomination to the office of _____, to be voted for at the primary election to be held on the _____ day of _____, 19__, hereby assert as follows:

My knowledge of _____ is sufficient to warrant my urging his election to the office of _____ and in my opinion he is fully qualified, mentally, morally, and physically for the office and should be elected to fill it. I am a qualified voter of _____ County and I am registered as affiliated with the _____ Party and am not at this time a signer of any other nomination paper of any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more nomination papers than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name _____

Residence _____

(b) The affidavit of the circulator shall read as follows:

AFFIDAVIT OF THE CIRCULATOR

I, _____, solemnly swear (or affirm) that I have been appointed according to the provisions of Sections 6497 and 6498 of the Elections Code, as a circulator to secure signatures in the County of _____ to the nomination paper of _____ as a candidate for the nomination of the _____ Party for the office of _____; that the signatures were obtained between _____, 19__ and _____ 19__; that all the signatures on this section of the nomination paper were made in my presence, and that, to the best of my knowledge and belief, each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

(SEAL) Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any nomination paper in his possession which is entitled to be filed under the provisions of the Elections Code.

(Elections Code Section 29302)

SEC. 2. Section 6494.1 is added to the Elections Code, to read:

6494.1. Notwithstanding any other provision of law to the contrary, if a candidate informs the county clerk that he or she intends to submit an in-lieu-filing-fee petition pursuant to Section 6555, the county clerk shall issue the candidate a special in-lieu-filing-fee petition which shall contain the text of subdivision (a) of Section 6494. The candidate shall also receive the in-lieu-filing-fee petition prescribed in Section 6555.

All valid signatures appearing on the special in-lieu-filing-fee petition shall be counted towards the number of signatures required to be submitted pursuant to Section 6495 and pursuant to Section 6555. If the candidate obtains the requisite number of valid signatures on the special in-lieu-filing-fee petition required under the provisions of Section 6495, the candidate shall not be required to execute a nomination paper as set forth in Section 6494.

If a special in-lieu-filing-fee petition does not contain the requisite number of valid signatures as set forth in Section 6495, the candidate shall be entitled to file, within the time period allowed for filing nomination papers, a nomination paper in order to obtain the requisite number of valid signatures required to be submitted to the county clerk on a nomination paper. A candidate who submits a nomination paper pursuant to this paragraph shall only be required to obtain the number of signatures thereon needed to supplement the special in-lieu-filing-fee petition so that the combination of signatures appearing on the special in-lieu-filing-fee petition and the nomination paper equals or exceeds the requisite number of signatures set forth in Section 6495.

SEC. 3. Section 6555 of the Elections Code is amended to read:

6555. (a) Notwithstanding any other provision of this article, a candidate may submit a petition containing signatures of registered voters in lieu of a filing fee as follows:

(1) For the office of California State Assembly, 1,500 signatures.

(2) For the office of California State Senate and the United States House of Representatives, 3,000 signatures.

(3) For candidates running for statewide office, 10,000 signatures.

(4) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he seeks nomination is 2,000 or more, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 10 percent of the total of registered voters in the district in which he seeks nomination, whichever is less.

(5) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he seeks nomination is less than 2,000, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 20 percent of the total of registered voters in the district in which he seeks nomination, whichever is less.

(6) Notwithstanding any other provision of this section, a

candidate seeking the nomination of a qualified party with whom he is registered, the registered voters of which who were eligible to vote at the last statewide election constituted less than 5 percent of all registered voters eligible to vote at the last statewide election, may submit a petition containing signatures of 10 percent of the registered voters of that party in the district in which he seeks nomination, or 150 signatures, whichever is less.

(7) A voter may sign both a candidate's nomination papers and his or her in-lieu-filing-fee petition. However, if signatures appearing on such documents are counted towards both the nomination paper and the in-lieu-filing-fee petition signature requirements, a person may only sign one of the documents.

(b) Each clerk shall furnish to each candidate, upon request, and without charge therefor, forms for securing signatures. Such forms shall be made available commencing 45 days before the first day for circulating nomination papers. No other form except the form furnished by the county clerk shall be used to secure signatures. The substitution of signatures for fees shall be subject to the following provisions:

(1) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he is eligible to vote.

(2) If a voter signs more candidates' petitions than there are offices to be filled, the voter's signatures shall be valid only on those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

(3) In-lieu-filing-fee petitions shall be filed at least 15 days prior to the close of the nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, or a sufficient combination of such signatures and pro rata filing fee, the clerk shall issue nomination papers provisionally. Within 10 days after receipt of a petition, the clerk shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, either submit a supplemental petition, or pay a pro rata portion of the filing fee, to cover the deficiency.

(4) If the petition is circulated for an office in more than one county, the candidate shall submit the signatures to the county clerk in the county in which the petition was circulated. The county clerk shall at least two days after verifying the signatures on the petition, notify the Secretary of State of the total number of valid signatures. If the number of signatures is insufficient, the Secretary of State shall notify the candidate and the county clerks of the fact. The candidate may submit the necessary number of valid signatures at any time prior to the close of the period for circulating nomination papers. Each circulator of an in-lieu-filing-fee petition shall have the qualifications required under Section 42.

(5) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The clerk shall not be required to determine the validity of a greater number of signatures than that required by this section.

(c) For the purposes of this section, the requisite number of signatures shall be computed from the latest registration figures forwarded to the Secretary of State pursuant to Section 607.

(d) Notwithstanding any provision contained in this section to the contrary, the provisions of Sections 6494.1 and 6834.1 shall be applicable to any candidate who obtains, circulates, and files nomination papers and special or regular in-lieu-filing-fee petitions in accordance with Section 6494.1 or 6834.1.

SEC. 4. Section 6834.1 is added to the Elections Code, to read:

6834.1. Notwithstanding any other provision of law to the contrary, if an independent candidate submits an in-lieu-filing-fee petition pursuant to Section 6555, the county clerk, upon the request of the candidate, shall accept all valid signatures appearing on the candidate's in-lieu-filing-fee petition toward the number of signatures required to be submitted on an in-lieu-filing-fee petition and on a nomination paper.

If the in-lieu-filing-fee petition does not contain the requisite number of signatures required under Section 6831, the candidate shall be entitled to file, within the time period allowed for filing nomination papers, a nomination paper in order to obtain the requisite number of valid signatures required to be submitted to the county clerk pursuant to this chapter.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 959

An act to add Article 10.5 (commencing with Section 49540) to Chapter 9 of Part 27 of the Education Code, relating to child nutrition.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Article 10.5 (commencing with Section 49540) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 10.5. Child Care Food Program

49540. The Department of Education shall, on behalf of the state, participate in the federal child care food program prescribed by Public Law 95-627, as codified in Section 1766 of Title 42 of the United

States Code, and shall not terminate its participation in such program unless the Legislature authorizes such termination.

49541. The Department of Education is hereby designated as the single state agency to administer the child care food program.

49542. (a) The Department of Education shall administer the child care food program for all eligible, participating entities that provide child development services pursuant to Chapter 2 (commencing with Section 8200) of, and alternative child care programs pursuant to Chapter 2.5 (commencing with Section 8400) of, Part 6.

(b) To the extent permitted by federal law, the child care food program shall be administered as part of such child development services and such alternative child care programs.

(c) The department shall seek the waiver of all federal provisions necessary to reduce fragmentation and duplication in administering the child care food program within such child development services and such alternative child care programs.

49543. The Department of Education shall administer the child care food program for all eligible, participating entities that provide child development services outside of the provisions of Chapter 2 (commencing with Section 8200) of, or child care programs outside of the provisions of Chapter 2.5 (commencing with Section 8400) of, Part 6.

49544. The Department of Education shall maximize the use of available federal funds for the federal child care food program by all eligible entities that provide child development services or child care programs.

49545. The Department of Education shall secure, in a timely manner, federal reimbursement for all eligible, participating entities in the child care food program.

49546. It is the intent of the Legislature that funding for costs for the implementation of this article shall come from either federal funds or transfer of funds appropriated for the support of the Department of Education.

CHAPTER 960

An act to add Chapter 8 (commencing with Section 3400) to Division 4 of the Health and Safety Code, relating to public health.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Chapter 8 (commencing with Section 3400) is added to Division 4 of the Health and Safety Code, to read:

CHAPTER 8. TUBERCULOSIS TESTS FOR PUPILS

3400. In enacting this chapter, it is the intent of the Legislature to provide:

(a) A means for the eventual elimination of tuberculosis.

(b) Persons required to be tested for tuberculosis under this chapter may obtain testing from whatever medical source they desire, subject only to the condition that the testing be performed in accordance with the regulations of the State Department of Health Services and that a record of the testing is made in accordance with such regulations.

(c) Exemptions from tuberculosis tests because of personal beliefs.

(d) For the keeping of adequate records of tuberculosis tests so that health departments, schools, and other institutions, parents or guardians, and the persons tested will be able to ascertain that a child is free from active tuberculosis, and so that appropriate public agencies will be able to ascertain the testing needs of groups of children in schools or other institutions.

3401. As used in this chapter, the following terms shall have the following meanings:

(a) "Governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) "Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency, a unit of the American Lung Association, or any other private or public source, any of which indicates examination for, and freedom from, active tuberculosis.

(c) "State department" means State Department of Health Services.

3402. (a) If the local health officer determines that persons seeking first admission to any private or public elementary or secondary school or institution are reasonably suspected of having tuberculosis and further determines that the examination of such persons for tuberculosis is necessary for the preservation and protection of the public health, he or she may issue an order requiring such persons to undergo a tuberculosis examination.

(b) If an order has been issued pursuant to subdivision (a), the governing authority shall not unconditionally admit any person subject to such order as a pupil of any private or public elementary or secondary school, or institution, unless prior to his or her first admission to that institution, he or she provides evidence to the institution of a certificate showing that he or she is free of communicable tuberculosis.

(c) Thereafter, any such pupil may be required to undergo the tuberculosis examinations and provide another certificate showing that he or she is free of communicable tuberculosis, if the local health officer orders such examination.

3403. The examination shall consist of an approved intradermal tuberculin skin test, which, if positive is followed by an X-ray of the lungs.

3404. (a) A person subject to an order made pursuant to subdivision (a) of Section 3402 who does not have on file the certificate required by this chapter may be admitted by the governing authority on condition that within time periods designated by regulations of the State Department of Health Services, he or she will provide the certificate.

(b) The governing authority shall prohibit from further attendance any person admitted conditionally who fails to obtain and provide the required certificate within the time limits allowed in the regulations of the department, unless such person is exempted under Section 3406, until such person has provided such certificate to the governing authority.

3405. The examinations required by this chapter may be administered by any private or public source desired.

3406. The certificate shall not be required for a person who is subject to an order made pursuant to subdivision (a) of Section 3402, if the parent, guardian, or other adult who has assumed responsibility for his or her care and custody in case of a minor, or the person seeking admission, if an emancipated minor, provides to the governing authority an affidavit stating that the examination required to obtain such certificate is contrary to his or her beliefs. If at any time there should be probable cause to believe that such person is afflicted with active tuberculosis, he or she may be excluded from the school or other institution listed in Section 3402 until the governing board is satisfied that he or she is not so afflicted.

3407. Any person or organization administering tuberculosis examinations shall furnish each person examined, or his or her parent or guardian, as appropriate, with a certificate of the examination results given in a form prescribed by the state department.

3408. The governing authority shall cooperate with the local health officer in carrying out any programs ordered by the local health officer for the tuberculosis examinations of persons applying for first admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose.

3409. The state department, in consultation with the Department of Education, shall adopt and enforce all rules and regulations necessary to carry out the provisions of this chapter.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school

district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 961

An act to add Sections 8680, 8681, 8682, 8683, 9009, 9010, and 9011 to the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 8680 is added immediately after the heading of Article 5 (commencing with Section 8685) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, to read:

8680. The Legislature finds and declares that it is in the best interest of the people of the state, the commercial fishing industry, and California's marine resources that fishermen who use gill nets be experienced in the use of such nets.

SEC. 2. Section 8681 is added to the Fish and Game Code, to read:

8681. Gill nets shall not be used for commercial purposes except under a revocable nontransferable permit issued by the department. Each permittee shall keep an accurate record of his fishing operations in a logbook furnished by the department. A permit may be revoked and canceled by the commission when so recommended by the department upon a conviction for a violation of a provision of this article, or regulation authorized by this article, by the permittee, his agents, servants, employees, or those acting under his direction and control. A permit may be revoked and canceled for a period not to exceed one year from the date of revocation.

SEC. 3. Section 8682 is added to the Fish and Game Code, to read:

8682. (a) The commission shall establish regulations for the issuance of gill net permits as necessary to establish an orderly gill net fishery. In promulgating regulations, the commission shall consider recommendations of the advisory committee created pursuant to subdivision (b). Such regulations shall include, but are not limited to, a requirement that persons being granted a permit have had previous experience as a crewmember of a vessel using gill nets or have successfully passed a proficiency test administered by the department, under such regulations as the commission shall prescribe.

(b) The director shall establish an advisory committee, consisting of fishermen experienced in the use of gill nets, to advise the department in developing regulations to be proposed to the

commission governing the use of gill nets.

SEC. 4. Section 8683 is added to the Fish and Game Code, to read:

8683. The director shall establish a permit fee as necessary to cover the cost of issuing such permits.

SEC. 5. Section 9009 is added to the Fish and Game Code, to read:

9009. The Legislature finds and declares that it is in the best interest of the people of the state, the commercial fishing industry, and California's marine resources that limits be placed on the use of traps for taking sablefish.

SEC. 6. Section 9010 is added to the Fish and Game Code, to read:

9010. When issuing trap permits for the taking of sablefish, the commission may limit the number of traps which any vessel may use and the areas wherein such traps may be used.

SEC. 7. Section 9011 is added to the Fish and Game Code, to read:

9011. The director shall establish an advisory committee, consisting of commercial fishermen actively engaged in the sablefish fishery, to advise the department in developing regulations to be proposed to the commission governing the use of traps to take sablefish.

SEC. 8. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Further, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Inasmuch as the absence of appropriate regulation of the use of gill nets would have the most adverse effects on the fisheries involved during the summer and early fall, it is necessary that this act take effect immediately.

CHAPTER 962

An act to amend Section 1720.2 of the Labor Code, relating to public works wages.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 1720.2 of the Labor Code is amended to read:

1720.2. For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, "public works" also means any construction work done under private contract when all of the following conditions exist:

(a) The construction contract is between private persons.

(b) The property subject to the construction contract is privately owned, but upon completion of the construction work, more than 50 percent of the assignable square feet of the property is leased to the state or a political subdivision for its use.

(c) Either of the following conditions exist:

(1) The lease agreement between the lessor and the state or political subdivision, as lessee, was entered into prior to the construction contract.

(2) The construction work is performed according to plans, specifications, or criteria furnished by the state or political subdivision, and the lease agreement between the lessor and the state or political subdivision, as lessee, is entered into during, or upon completion of, the construction work.

CHAPTER 963

An act to add Sections 10002, 10002.5, 10003, and 17136 to, and to amend and renumber Sections 10001 and 10002 of, the Elections Code, relating to elections.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 10001 of the Elections Code is amended and renumbered to read:

10001.5. The Secretary of State shall obtain and keep on hand a sufficient supply of tinted ballot paper, and shall obtain and keep on hand a backup supply of tinted punchcards, to be furnished, in quantities ordered, to any jurisdiction holding an election pursuant to the laws of California, upon payment of the cost of the ballot paper or punchcards.

SEC. 2. Section 10002 of the Elections Code is amended and renumbered to read:

10001. All ballot paper and punchcards used by any jurisdiction holding an election pursuant to the laws of California, shall be tinted and watermarked or overprinted with a design, to be furnished by the Secretary of State, so that the watermark or overprint shall be

plainly discernible.

SEC. 2.5. Section 10002 is added to the Elections Code, to read:

10002. The Secretary of State shall adopt regulations governing the manufacture, distribution, and inventory control of punchcards and requiring the periodic inspection of the manufacturing and storage facilities involving punchcards. The Secretary of State shall also approve each punchcard manufacturer prior to a manufacturer providing punchcards for use in California elections.

SEC. 3. Section 10002.5 is added to the Elections Code, to read:

10002.5. Before any user may purchase punchcards, the user shall request in writing a release for a specific quantity of such punchcards from the Secretary of State. If the request is in order, the Secretary of State shall then issue a written release for that quantity to the manufacturer, or to the authorized warehouse, and to the user. The format, text, and use of the request and release shall be governed by regulations adopted by the Secretary of State.

Nothing in this section shall be construed to prohibit a verbal request or verbal release provided that such verbal request or verbal release is immediately confirmed in writing. The regulations shall expressly deny the manufacturing of punchcards without a specific release.

SEC. 4. Section 10003 is added to the Elections Code, to read:

10003. No user, vendor, or manufacturer shall warehouse for a subsequent election any ballot paper or punchcards furnished or released by the Secretary of State for a specific election without first obtaining authorization in writing from the Secretary of State for such storage. The authorization shall include the particular details of the amount to be stored so that audit controls may be established and maintained. Any such ballot paper or punchcards not used in that election, not authorized to be retained for subsequent elections, and not returned to the Secretary of State shall be destroyed. A certificate of destruction setting forth the date of destruction and the amount of such ballot paper or punchcards destroyed shall be transmitted to the Secretary of State.

SEC. 5. Section 17136 is added to the Elections Code, to read:

17136. Notwithstanding any other provision of the law, the clerk, after holding the unused ballots for the purposes of Division 10 (commencing with Section 14000), may, in lieu of the procedure outlined in Section 14306, and with written authorization from the Secretary of State, recycle for any other lawful purpose any unmarked ballots which clearly identify the election for which they were prepared. The clerk shall make and file an affidavit, in writing, as to the number of ballots recycled.

CHAPTER 964

An act to amend Sections 3050.1 and 3050.2 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 3050.1 of the Vehicle Code is amended to read:

3050.1. (a) In any proceeding, hearing, or in the discharge of any duties imposed under this chapter, the board, its secretary, or a hearing officer designated by the board may administer oaths, take depositions, certify to official acts, and issue subpoenas to compel attendance of witnesses and the production of books, records, papers, and other documents in any part of the state.

(b) For purposes of discovery, the board or its secretary may, if deemed appropriate and proper under the circumstances, authorize the parties to engage in such discovery procedures as are provided for in civil actions in Article 3 (commencing with Section 2016) and Article 4 (commencing with Section 2037) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, excepting the provisions of Section 2030 of that code. Discovery shall be completed no later than 15 days prior to the commencement of the proceeding or hearing before the board. This subdivision shall apply only to those proceedings or hearings involving a petition or protest filed pursuant to subdivision (c) or (d) of Section 3050. The board, its secretary, or a hearing officer designated by the board may issue subpoenas to compel attendance at depositions of persons having knowledge of the acts, omissions or events which are the basis for the proceedings, as well as the production of books, records, papers and other documents.

SEC. 2. Section 3050.2 of the Vehicle Code is amended to read:

3050.2. (a) Obedience to subpoenas issued to compel attendance of witnesses, or the production of books, records, papers, and other documents at the proceeding or hearing, may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Compliance with such discovery procedures as have been authorized pursuant to subdivision (b) of Section 3050.1 may be enforced by application to the secretary of the board. The secretary may, at the direction of the board, upon a showing of failure to comply with authorized discovery without a showing of good cause for such failure, dismiss the protest or suspend the proceedings pending compliance. Nothing in this section shall prohibit the secretary from making application to the superior court to enforce

obedience to subpoenas or compliance with such other discovery procedures as have been authorized pursuant to subdivision (b) of Section 3050.1.

CHAPTER 965

An act to repeal Sections 506.1, 506.2, 506.3, 506.4, and 506.5 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 506.1 of the Public Resources Code is repealed.

SEC. 2. Section 506.2 of the Public Resources Code is repealed.

SEC. 3. Section 506.3 of the Public Resources Code is repealed.

SEC. 4. Section 506.4 of the Public Resources Code is repealed.

SEC. 5. Section 506.5 of the Public Resources Code is repealed.

CHAPTER 966

An act to add Section 14108.1 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 14108.1 is added to the Welfare and Institutions Code, to read:

14108.1. Any recipient receiving care in a skilled nursing or intermediate care facility under this chapter, as part of a certified special treatment program for mentally disordered persons, or as a part of a mental health therapeutic and rehabilitative program approved and certified by a local mental health director, is entitled to be temporarily absent from such facilities. The State Department of Health Services shall, with consultation from the State Department of Mental Health, develop regulations within 60 days of the effective date of this act establishing the periods of time and conditions under which temporary absences shall be permitted. Such regulations shall require that absences be in accordance with an individual patient care plan and also provide for absences due to hospitalization for an acute condition. The limits on temporary leaves of absence established by the State Department of Health

Services by regulation shall not be less than 30 days per year.

During such temporary absences, the State Department of Health Services shall reimburse the facility for the cost of maintaining the vacant accommodations at a rate to be determined by the state department which shall be less than the normal reimbursement rate.

CHAPTER 967

An act to amend Sections 31006, 31152, 31201, 31252, 31351, and 31400 of, and to add Sections 31005, 31014, 31015, 31016, 31056, 31208.5, 31213.5, 31258.5, and 31263.5 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 31005 is added to the Public Resources Code, to read:

31005. "Bay commission" means the San Francisco Bay Conservation and Development Commission, established under Title 7.2 (commencing with Section 66600) of the Government Code.

SEC. 2. Section 31006 of the Public Resources Code is amended to read:

31006. (a) "Coastal zone" means that area of the state as defined in Section 30103, and, for purposes of conservancy action in San Francisco Bay, areas within the permit jurisdiction of the bay commission, as described in Section 66610 of the Government Code, except Contra Costa County lands from the Richmond-San Rafael Bridge north and east to the termination of the bay commission boundary, as well as any adjacent uplands, managed wetlands, marshes, and diked lands that significantly affect the environmental quality of the bay, or that are directly related to the public's use and enjoyment of the bay.

(b) Notwithstanding the provisions of subdivision (a), with respect to lands within Contra Costa County that are included within the permit jurisdiction of the bay commission, as described in Section 66610 of the Government Code, or consist of any adjacent uplands, managed wetlands, marshes, or diked lands that significantly affect the environmental quality of the bay or that are directly related to the public's use and enjoyment of the bay, the local public agency having jurisdiction over such lands may formally request conservancy action by resolution.

SEC. 3. Section 31014 is added to the Public Resources Code, to read:

31014. "Bay plan" means the San Francisco Bay Plan as adopted by the bay commission.

SEC. 4. Section 31015 is added to the Public Resources Code, to read:

31015. "Suisun Marsh Protection Plan" means the plan approved as provided in Division 19 (commencing with Section 29000).

SEC. 4.5. Section 31016 is added to the Public Resources Code, to read:

31016. "Local plan" means any land use plan of a local public agency, port district, regional park or open-space district, or recreation and park district whose jurisdiction is included, in whole or in part, within the jurisdiction of the conservancy within San Francisco Bay in the areas described in Section 31006.

SEC. 5. Section 31056 is added to the Public Resources Code, to read:

31056. (a) The conservancy is not required to provide funding for projects within the San Francisco Bay in the areas described in Section 31006, until the Legislature appropriates funds for such purposes.

The conservancy shall expend funds specifically identified for the San Francisco Bay, whether from public or private sources, in the San Francisco Bay.

(b) The bay commission may annually prepare and adopt a list of priority areas and concerns which are essential to the orderly implementation of the bay plan and the Suisun Marsh Protection Plan. The priority list shall provide guidance to the conservancy in its selection of San Francisco Bay projects.

SEC. 6. Section 31152 of the Public Resources Code is amended to read:

31152. Notwithstanding any other provisions of this division to the contrary, the conservancy shall not act to acquire any interests in lands in the coastal zone for agricultural purposes unless the conservancy finds that both of the following conditions apply to the proposed acquisition:

(a) The lands are specifically identified in a certified local coastal plan or program as agricultural lands, or, in the case of San Francisco Bay, the lands as so identified in the bay plan, the Suisun Marsh Protection Plan, or in any other local plan which the bay commission determines to be consistent with such plans.

(b) There is no other reasonable means, including the use of police power, of assuring continuous use of such lands for agricultural purposes.

SEC. 7. Section 31201 of the Public Resources Code is amended to read:

31201. All areas proposed for restoration by a local public agency or by the conservancy shall be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential development problems or shall be so identified in other local plans which the commission determines to be consistent with the policies and objectives of Division 20 (commencing with Section 30000). In the case of San Francisco Bay, the lands shall be so

identified in the bay plan, the Suisun Marsh Protection Plan, or in any other local plan which the bay commission determines to be consistent with such plans.

SEC. 8. Section 31208.5 is added to the Public Resources Code, to read:

31208.5. In the case of San Francisco Bay projects, the conservancy shall forward a proposed coastal restoration plan to the bay commission for determination of conformity with the bay plan, and, where relevant, with the Suisun Marsh Protection Plan. The bay commission shall have 60 days to review the plan and transmit its findings on such plan to the conservancy. If no comments are received within such period, the restoration plan shall be deemed to be in accord with the bay plan and, where relevant, the Suisun Marsh Protection Plan.

SEC. 9. Section 31213.5 is added to the Public Resources Code, to read:

31213.5. In the case of San Francisco Bay, the conservancy may undertake restoration of an area only upon formal request by resolution of a local public agency or the bay commission, except that, with respect to lands within Contra Costa County, such restoration or other action may be undertaken only upon the formal request by resolution of the local public agency having jurisdiction over such lands; provided, however, that a restoration plan for the area has been prepared by the conservancy and approved in accordance with Section 31208.5.

SEC. 10. Section 31252 of the Public Resources Code is amended to read:

31252. All areas proposed for resource enhancement by a local public agency or a state agency shall be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential resource protection problems or shall be so identified in other local plans which the commission determines to be consistent with the policies and objectives of Division 20 (commencing with Section 30000). In the case of San Francisco Bay, the lands shall be so identified in the bay plan, the Suisun Marsh Protection Plan, or in any other local plan which the bay commission determines to be consistent with such plans.

SEC. 11. Section 31258.5 is added to the Public Resources Code, to read:

31258.5. In the case of San Francisco Bay projects, the conservancy shall forward a coastal resource enhancement plan to the bay commission for determination of conformity with the bay plan, and, where relevant, with the Suisun Marsh Protection Plan. The bay commission shall have 60 days to review the plan and transmit its findings on such plan to the conservancy. If no comments are received within such period, the resource enhancement plan shall be deemed to be in accord with the bay plan, and, where relevant, the Suisun Marsh Protection Plan.

SEC. 12. Section 31263.5 is added to the Public Resources Code,

to read:

31263.5. In the case of San Francisco Bay, the conservancy may undertake resource enhancement of an area only upon formal request by resolution of a local public agency or the bay commission, except that, with respect to lands within Contra Costa County, such resource enhancement or other action may be undertaken only upon the formal request by resolution of the local public agency having jurisdiction over such lands; provided, however, that a resource enhancement plan has been prepared and approved as provided in Section 31258.5.

SEC. 13. Section 31351 of the Public Resources Code is amended to read:

31351. (a) The conservancy shall cooperate with the commission, bay commission, and other state and local public agencies and with nonprofit organizations in ensuring the reservation of lands for park, recreation, fish and wildlife habitat, historical preservation, or scientific study required to meet the policies and objectives of the California Coastal Act of 1976 (commencing with Section 30000) or a certified local coastal plan or program, or, in the case of San Francisco Bay, the sites identified in the bay plan, the Suisun Marsh Protection Plan, or in any other local plan which the bay commission determines to be consistent with such plans.

(b) The provisions of this division shall not diminish or otherwise affect the authority of the bay commission to approve, deny, or modify permits as provided in Section 66632 of the Government Code.

SEC. 14. Section 31400 of the Public Resources Code is amended to read:

31400. The Legislature finds and declares that it is the policy of the state that the right of the public to access and enjoyment of the coastal resources should be effectively guaranteed. To achieve such objective, it is the intent of the Legislature that the State Coastal Conservancy have a principal role in the implementation of a system of public accessways to and along the state's coastline, including San Francisco Bay and Suisun Marsh.

CHAPTER 968

An act to amend Section 5150 of, and to add Section 5651.7 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 5150 of the Welfare and Institutions Code is amended to read:

5150. When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

SEC. 2. Section 5651.7 is added to the Welfare and Institutions Code, to read:

5651.7. The Legislature recognizes the need for certain mental health services to be provided in settings outside of the physical facilities which house providers of care and service. Such services include multidisciplinary crisis interventions in settings in which the crises occur, with a goal of preventing unnecessary and costly disruption of normal living. For purposes of this section, such services shall be called "extramural crisis intervention."

By July 1, 1981, the county mental health plan shall include a statement of need for extramural crisis intervention and a plan for providing such services within available funds and resources.

The extramural crisis intervention plan shall include at least all of the following components:

(a) Twenty-four-hour access by telephone.

(b) A plan for advertising the 24-hour telephone capability to persons at risk and to appropriate emergency referral sources such as operators of community care facilities, managers of apartment complexes, religious institutions, law enforcement agencies, suicide prevention services, and the like.

(c) A description of the composition of a mobile crisis team, which may include, capability for identifying medical emergencies, dispensing medications, securing assistance from community service agencies, and providing the most cost-effective companion service

during the crisis period.

(d) A plan for countywide implementation of the extramural crisis intervention program.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 969

An act to amend Sections 39327.2, 39327.4, 39327.7, 39328, 39328.1, 39328.2, 39328.3, 39328.4, 39328.5, and 39328.6 of, and to add Section 39328.7 to, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 39327.2 of the Education Code is amended to read:

39327.2. The sale of bonds for the accomplishment of a school facilities plan shall be subject to the approval of the State Treasurer. Prior to the sale of any such bonds, the State Allocation Board shall determine that the proposed facilities to be constructed with such bond proceeds are consistent with its building area and costs standards as to the area and facilities described in the school facilities plan pursuant to which the bonds are to be issued. The sale of the bonds shall be conducted in compliance with Chapter 10 (commencing with Section 5800) of Division 6 of Title 1 of the Government Code. However, any such bonds may be sold at a negotiated sale. The State Treasurer and the State Allocation Board may impose a charge and collect a fee for reimbursement of actual costs incurred in accomplishing such approval and determination.

SEC. 2. Section 39327.4 of the Education Code is amended to read:

39327.4. Whenever the governing board determines that a lease or agreement should be entered into with a nonprofit corporation, the board shall adopt a resolution of intention. The board shall have the following powers and shall state in such resolution:

(a) The intention of the board to formulate a school facilities plan for the school district or a portion thereof.

(b) A summary description of the facilities to be included within such school facilities plan.

(c) The estimated expense of carrying out such school facilities plan, including all incidental expenses.

(d) That a map depicting the exterior boundaries of the territory to be benefited by the school facilities plan is on file with the secretary of the school district and is available for inspection by any person or persons interested.

(e) A legal description of the real property upon which an owner's development lien is to be imposed and to be recorded with the county recorder of the county or counties in which such real property is located.

(f) The intention of the board to cause the formation of a nonprofit corporation the purpose of which is to issue bonds, notes, or other obligations to finance the construction of the facilities included within the school facilities plan and to lease such facilities to the school district.

(g) That pursuant to Section 39327.8, an owner's development lien shall be imposed to the benefit of the school district on all real property described in the map on file with the secretary of the school district, exclusive of real property subject to restrictions that preclude development thereon, which shall specify the amount thereof and the maximum period of time over which such amount is to be paid, together with a specified maximum interest rate.

(h) That the school district may enforce such lien, as to any amount or amounts in default, by judicial foreclosure proceedings as provided for in Section 39328.4.

(i) That the owner's development lien provided for in this article shall be imposed with the consent of all owners within the final map of the boundaries in equal amounts on each acre or portion thereof within the territory to be benefited by the school facilities plan or imposed pursuant to Section 39328.7.

(j) That the proposed facilities may or may not be constructed within the boundaries of the territory to be benefited by the school facilities plan as depicted on the map described in subdivision (d).

(k) That the benefited property may include noncontiguous territory and that real property may subsequently be included by the governing board, subject to the assumption of a pro rata share of all obligations incurred or to be incurred, plus an amount not less than all amounts collected pursuant to the owner's development lien per acre or portion thereof.

SEC. 3. Section 39327.7 of the Education Code is amended to read:

39327.7. The resolution ordering implementation of the school facilities plan shall state the following:

(a) A legal description of the real property to which an owner's development lien is to be imposed;

(b) The names of all owners of record of the real property to which an owner's development lien is to be imposed;

(c) The total amount of the owner's development lien to benefit the school district as described in subdivision (g) of Section 39327.4;

(d) The real property described in the resolution shall be subject to an owner's development lien for a pro rata share on each acre or portion thereof pursuant to the provisions of this article or such other amount as herein provided;

(e) That all owners of the real property described in the resolution have agreed on their behalf and on behalf of their successors in interest to pay the designated share of the owner's development lien, have acknowledged that such agreement constitutes a covenant running with the land pursuant to Section 39327.1, have agreed that the obligation created is secured by the owner's development lien as provided in this article, and have consented to the implementation of the owner's development lien; and

(f) That a lease or agreement will be entered into with a nonprofit corporation.

SEC. 4. Section 39328 of the Education Code is amended to read:

39328. Except as provided in Section 2192.1 of the Revenue and Taxation Code, an owner's development lien imposed for the purposes of this article shall have the same priority as special assessment liens described in Article 13 (commencing with Section 53930) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Except as to any due, unpaid and delinquent amount, the owner's development lien shall not be deemed to be a prior encumbrance within the meaning of Section 766 of the Financial Code. From and after the date of the recording of the owner's development lien, all persons shall be deemed to have notice of the contents thereof.

SEC. 5. Section 39328.1 of the Education Code is amended to read:

39328.1. Additional territory may be added to the area described as being benefited by the school facilities plan in the discretion of the governing board, provided the owners of the real property to be added consent to the imposition of a lien for all present and future obligations as set forth in the school facilities plan and agree to pay to the district an amount at least equal to all amounts collected pursuant to the owner's development lien.

Any additional territory added to the area benefited by the school facilities plan pursuant to this section shall be the subject of a resolution described in Section 39327.7 and recorded pursuant to Section 39327.8.

SEC. 6. Section 39328.2 of the Education Code is amended to read:

39328.2. The governing board may bill and collect pursuant to the owner's development lien and collect payments from the owners of all property subject to an owner's development lien in amounts sufficient for the district to meet its rental obligations under any lease or agreement and to pay or reimburse any expenses incurred to implement the school facilities plan. The amounts due pursuant to the owner's development liens shall be billed and collected in equal

amounts on each acre or portion thereof as provided for in the owner's development lien or as provided for in Sections 39328.7 and 39328.8.

A school district electing to utilize the provisions of this article may enter into a contract with the county tax collector for the billing of the annual amounts billed pursuant to this section. The tax collector may collect such amounts together with and not separate from the taxes on such property. The county tax collector shall be entitled to a fee for the reasonable value of such services.

SEC. 7. Section 39328.3 of the Education Code is amended to read:

39328.3. An owner's development lien may be released by the governing board, provided funds are deposited with such board to pay the unpaid principal amount of the lien, plus any prepayment charges in an amount to be determined by the governing board.

Upon receipt of such amount or amounts, the board shall adopt a resolution specifically providing a legal description of the real property and the record title owners thereof subject to such release. The resolution shall be recorded with the county recorder of the county or counties in which such real property is located. Upon recordation of such resolution, the owner's development lien shall be discharged and of no further effect.

SEC. 8. Section 39328.4 of the Education Code is amended to read:

39328.4. (a) Any installment of an owner's development lien created pursuant to this article shall become delinquent 30 days following billing thereof if unpaid, or if such installment is being collected by the county tax collector, at the time general taxes become delinquent. An installment shall be in default 30 days after written notice of such delinquency has been given by certified or registered mail to the record owner of the property subject to such lien and all lenders of record.

(b) The governing board, not later than four years after the date of default of any payment, may order that the amount be collected by an action brought in superior court to foreclose against the real property subject to the owner's development lien for the then delinquent installment of the owner's development lien. The action shall affect only such delinquent amounts and shall not accelerate or require payment of any remaining amount of the owner's development lien.

(c) The lease agreement between the governing board and the nonprofit corporation may contain covenants for the benefit of bondholders providing that the governing board shall commence and diligently prosecute to completion any foreclosure action regarding delinquent installments of an owner's development lien. The lease agreement may specify a deadline for commencement of such foreclosure action and such other terms and conditions as the governing board may determine to be reasonable.

(d) The governing board may assign its rights under this section

to the nonprofit corporation or to any trustee under the resolution adopted pursuant to Section 39327.7.

(e) Costs in the action shall be fixed and allowed by the court and shall include, but are not limited to, reasonable attorneys' fees, interest, penalties and other charges or advances authorized by this article, and when so fixed and allowed by the court, the costs shall be included in the judgment. The amount of penalties, costs, and interest due shall be calculated up to the date of judgment.

(f) All matters pertaining to foreclosure, execution and sale shall be governed by the then existing law of California. However, notwithstanding any other provision of law, the owner's right of redemption shall be limited to 60 days following the date of sale of the owner's interest. The owner's development lien shall continue as security for all future required installment payments. Any remaining funds after foreclosure and payment of all obligations and costs of foreclosure of the delinquent installment of the owner's development lien shall be paid pursuant to the priority of encumbrances of record and to the owner or owner's successor as of the date of initiation of such foreclosure proceeding.

(g) Foreclosures of installments of the owner's development lien pursuant to this article shall not affect the priority of any scheme of community development approved by the Department of Real Estate, including, but not limited to, subdivision maps, condominium plans, covenants, conditions, restrictions, and easements whether recorded prior to or subsequent to such owner's development lien.

SEC. 9. Section 39328.5 of the Education Code is amended to read:

39328.5. Any action to contest the validity of this article may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that an appeal from any judgment rendered in such action shall be made directly to the Supreme Court of the State of California.

SEC. 10. Section 39328.6 of the Education Code is amended to read:

39328.6. Notwithstanding any other provision contained in this article, and as an alternative method of accomplishing the purposes of this article, owner's development liens may be imposed in unequal amounts on each acre or portion thereof in order that such liens may be based upon equal or equitable amounts for each individual dwelling unit after subdivision into lots or condominium units.

SEC. 11. Section 39328.7 is added to the Education Code, to read:

39328.7. (a) As an alternate provision, owner's development liens previously imposed upon a particular parcel or parcels of property which are subsequently subdivided may be apportioned to provide that the owner's development liens shall be imposed upon the individual lots and condominium units created by one or more subdivisions. Such liens need not necessarily be imposed upon a pro rata basis based upon acreage, but may be imposed pursuant to Section 39328.6 to provide for an equal or equitable portion of the

total lien to be imposed upon each individual dwelling unit or resulting separate parcel. In imposing such owner's development liens on individual lots and condominium units, there may be excluded from such liens property which becomes subject to restrictions that preclude development thereon including, but not limited to, areas of common ownership, streets, and easements. Prior to such apportionments of an owner's development lien pursuant to this section, the governing board of the school district shall adopt a resolution which shall include the following:

(1) A legal description of the real property on which an owner's development lien has previously been imposed.

(2) The intention of the governing board to apportion such owner's development lien to provide for an equitable apportionment of the lien upon individual lots and condominium units within the properties to be subdivided.

(3) A map showing the subdivided lands, together with the proposed owner's development liens to be imposed upon the individual lots and condominium units within one or more such subdivisions.

(b) Upon adoption of such resolution, the secretary of the school district shall mail a copy of such resolution to each owner of the property upon which the owner's development lien has previously been imposed as shown on the last equalized assessment roll. A copy of this resolution shall be published pursuant to Section 6066 of the Government Code. The secretary of the school district shall mail copies of the resolution to any beneficiary of deeds of trust upon the property. No sooner than 30 days after such mailings, the governing board may consider objections to the proposed apportionment of the owner's development lien. Provided that all owners of the parcels over which the lien is to be apportioned, including any beneficiary under any deeds of trust, or any beneficiary under any deed of trust, have consented, the owner's development lien may be apportioned to provide for an equitable portion of the total development lien to be placed upon the individual lots, condominium units or separate parcels created within one or more of the subdivisions. A resolution approving the apportionment of the owner's development lien shall thereafter be adopted and recorded with the county recorder of the county or counties in which such real property is located. Apportionment pursuant to this section shall be effective upon such recordation. The apportionment of the owner's development lien shall in no way either increase or decrease the total amount of the owner's development lien which has previously been imposed upon the properties involved. However, the original owner's development lien which had been previously imposed shall be released of record at the time the apportionment of the lien pursuant to this section is recorded.

SEC. 12. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance

with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that school districts may acquire urgently needed facilities at the earliest possible time, it is essential that this act take effect immediately.

CHAPTER 970

An act to amend Section 2019 of the Code of Civil Procedure, relating to depositions.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 2019 of the Code of Civil Procedure is amended to read:

2019. (a) (1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. Such notice must be at least 10 days, adding also one day for every 300 miles of the distance of the place of examination from the residence of the person to whom the notice is given, except that on motion of any party, with or without notice, and for good cause shown, the court may enlarge or shorten the time, or may stay the taking of the deposition until the hearing and determination of a motion for an order pursuant to subdivision (b) of this section. Service of such notice or motion may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of this code.

(2) Notwithstanding Section 1989 and the distance provisions specified in paragraph (4) of this subdivision, the deposition, whether of a party or any other person, shall be taken only in the county of residence of the deponent or at a place not more than 75 miles from the residence of the deponent or, if the deponent is a party, in the county of place of trial when the place of deposition is less than 150 miles from the residence of the deponent, unless the

court, pursuant to paragraph (1) or (2) of subdivision (b) of this section, otherwise orders. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

(3) If an adverse party is in default for not appearing within the time allowed by the law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, a deposition may be taken without the giving of any notice to the party so in default or not appearing; and in any case on motion of any party, with or without notice, and for good cause shown, the court may authorize the taking of a deposition without the giving of notice to parties who have not been served with summons.

(4) In the case of depositions of a party to the record of any civil action or proceeding or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such party, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney for such party or to the party, if the party has no attorney. In the case of depositions of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such person, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent or to such party, if the party has no attorney. A notice to take the deposition of a person described in this paragraph cannot require the attendance of such person at a place more than 150 miles from the residence of such person, unless the party desiring to take such deposition first obtains an order pursuant to the provisions of paragraph (2) of subdivision (b) of this section.

(5) In the case of depositions for which the production of books, documents, or other things is required of a party to the record of any civil action or proceeding or person for whose immediate benefit an action or proceeding is prosecuted or defended or anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena duces tecum and affidavit upon any such person is not required if proper notice is served upon the attorney of such party or person. Such notice shall specify the exact materials or things to be produced.

(6) A party may, in the party's notice or in a subpoena, name as the deponent a public or private corporation or partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent, to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify in accordance with the

demand. A subpoena shall advise a nonparty organization of its duty to make such a designation. The person so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by law and does not preclude the party, on such terms as are just, from offering evidence by other witnesses regarding the matters specified in the notice or subpoena.

(b) (1) Upon motion seasonably made by any party or by the person to be examined or notified to produce books, documents, or other things and upon notice, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than stated in the notice of taking the deposition, or that the deposition may be taken outside the county of residence and at a place more than 75 miles and less than 150 miles from the residence of the deponent in cases not provided for by paragraph (2) of subdivision (a) of this section, or that it shall not be taken except by allowing written interrogatories by one or more parties, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, books, documents, or other things, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs and expenses, including attorney's fees, as the court may deem reasonable.

(2) Notwithstanding Section 1989, the court may, upon motion on 10 days' written notice and for good cause shown, make an order requiring a deponent who is a party to the record of any civil action or proceeding or is a person for whose immediate benefit said action is prosecuted or defended or is at the time of the taking of the deposition an officer, director or managing agent of any such party or person to attend a deposition at a place more than 150 miles from the residence of such deponent. In granting or refusing such order, the court shall consider whether the moving party selected the forum, whether the deponent will be present at the trial, the convenience of the deponent, the suitability of discovery through a deposition by written interrogatories or other discovery methods, the number of depositions sought under this section, the expense to the parties of requiring the deposition to be taken within 150 miles of the residence of the deponent, the whereabouts of the deponent

at the time the deposition is scheduled to be taken, and all other factors tending to show whether or not the interests of justice and the convenience of the parties and witnesses will be served by requiring the deponent to appear for the deposition at a place more than 150 miles from the deponent's residence. Such order may provide that the party desiring to take such deposition shall pay the reasonable expenses incurred by the deponent in attending such deposition and that the party furnish an undertaking approved by the court to secure such payment and may contain such other terms and conditions as are equitable and just.

(c) The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. A party may videotape the deposition if the notice of taking deposition states that the deposition will also be videotaped, however, the cost of the videotape portion of the deposition shall not be a recoverable court cost. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) At any time during the taking of the deposition, on motion of any party or of the deponent, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the superior court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b) of this section. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses, including attorney's fees, as the court may deem reasonable.

(e) Unless the parties agree on the record to another procedure for reading, correcting, and signing the original of the deposition, when the testimony is fully transcribed the officer shall notify the deponent and counsel in writing that the original of the deposition

is available for reading, correcting and signing at the office of the officer, and shall remain so available during business hours of business days for a period of 30 calendar days following such notification. The examination and reading of the transcribed testimony may be waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition. The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following the notification prescribed in this subdivision by means of a letter addressed and mailed or delivered to the transcribing officer indicating any changes to be made, approval, or refusal to approve the deposition. Such changes, approval, or refusal to approve the deposition, when made by letter, shall be equivalent to personal changes, approval, or refusal to approve the deposition.

If the deponent fails to appear at the office of the officer or notify him by letter as provided in this subdivision within such 30-day period, or if the witness so appears or sends such letter but refuses to approve or sign the deposition, the officer shall indicate on the original the fact that the deponent failed to appear, or the fact that the deponent refused to sign together with any reason given therefor. Thereafter the deposition shall have the same force and effect as though it had been read, corrected and signed by the deponent, unless on a motion to suppress under subdivision (d) of Section 2021 of this code the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) (1) The officer shall certify on the deposition that the witness was duly sworn by such officer and that the deposition is a true record of the testimony given by the witness. The officer shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)". Depositions shall not be filed unless and until their contents become relevant to an issue in the trial or other pending proceedings at which time the court may order that the deposition be filed as part of the record.

(2) The officer taking the deposition shall give prompt notice of the availability of the deposition to all other parties.

(3) Unless the parties agree on the record that the party noticing the deposition shall do so, the officer taking the deposition shall keep the deposition for six months following the final disposition of the case. If the officer discontinues his or her occupation of taking depositions, by reason of death or otherwise, the officer or an agent of the officer shall file the deposition with the court.

(g) (1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

SEC. 2. Section 2019 of the Code of Civil Procedure is amended to read:

2019. (a) (1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. Such notice must be at least 10 days, adding also one day for every 300 miles of the distance of the place of examination from the residence of the person to whom the notice is given, except that on motion of any party, with or without notice, and for good cause shown, the court may enlarge or shorten the time, or may stay the taking of the deposition until the hearing and determination of a motion for an order pursuant to subdivision (b) of this section. Service of such notice or motion may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of this code.

(2) Notwithstanding Section 1989 and the distance provisions specified in paragraph (4) of this subdivision, the deposition, whether of a party or any other person, shall be taken only in the county of residence of the deponent or at a place not more than 75 miles from the residence of the deponent or, if the deponent is a party, in the county of place of trial when the place of deposition is less than 150 miles from the residence of the deponent, unless the court, pursuant to paragraph (1) or (2) of subdivision (b) of this section, otherwise orders. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

(3) If an adverse party is in default for not appearing within the time allowed by the law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, a deposition may be taken without the giving of any notice to the party so in default or not appearing; and in any case on motion of any party, with or without notice, and for good cause shown, the court may authorize the taking of a deposition without the giving of notice to parties who have not been served with summons.

(4) In the case of depositions of a party to the record of any civil action or proceeding or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such party,

the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney for such party or to the party, if the party has no attorney. In the case of depositions of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such person, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent or to such party, if the party has no attorney. A notice to take the deposition of a person described in this paragraph cannot require the attendance of such person at a place more than 150 miles from the residence of such person, unless the party desiring to take such deposition first obtains an order pursuant to the provisions of paragraph (2) of subdivision (b) of this section.

(5) In the case of depositions for which the production of books, documents, or other things is required of a party to the record of any civil action or proceeding or person for whose immediate benefit an action or proceeding is prosecuted or defended or anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena duces tecum and affidavit upon any such person is not required if proper notice is served upon the attorney of such party or person. Such notice shall specify the exact materials or things to be produced.

(6) A party may, in the party's notice or in a subpoena, name as the deponent a public or private corporation or partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent, to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify in accordance with the demand. A subpoena shall advise a nonparty organization of its duty to make such a designation. The person so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by law and does not preclude the party, on such terms as are just, from offering evidence by other witnesses regarding the matters specified in the notice or subpoena.

(b) (1) Upon motion seasonably made by any party or by the person to be examined or notified to produce books, documents, or other things and upon notice, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than stated in the notice of taking the deposition, or that the deposition may be taken outside the county of residence and at a place more than 75

miles and less than 150 miles from the residence of the deponent in cases not provided for by paragraph (2) of subdivision (a) of this section, or that it shall not be taken except by allowing written interrogatories by one or more parties, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, books, documents, or other things, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs and expenses, including attorney's fees, as the court may deem reasonable.

(2) Notwithstanding Section 1989, the court may, upon motion on 10 days' written notice and for good cause shown, make an order requiring a deponent who is a party to the record of any civil action or proceeding or is a person for whose immediate benefit said action is prosecuted or defended or is at the time of the taking of the deposition an officer, director or managing agent of any such party or person to attend a deposition at a place more than 150 miles from the residence of such deponent. In granting or refusing such order, the court shall consider whether the moving party selected the forum, whether the deponent will be present at the trial, the convenience of the deponent, the suitability of discovery through a deposition by written interrogatories or other discovery methods, the number of depositions sought under this section, the expense to the parties of requiring the deposition to be taken within 150 miles of the residence of the deponent, the whereabouts of the deponent at the time the deposition is scheduled to be taken, and all other factors tending to show whether or not the interests of justice and the convenience of the parties and witnesses will be served by requiring the deponent to appear for the deposition at a place more than 150 miles from the deponent's residence. Such order may provide that the party desiring to take such deposition shall pay the reasonable expenses incurred by the deponent in attending such deposition and that the party furnish an undertaking approved by the court to secure such payment and may contain such other terms and conditions as are equitable and just.

(c) The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. A party may videotape the deposition if the notice of taking

deposition states that the deposition will also be videotaped, however, the cost of the videotape portion of the deposition shall not be a recoverable court cost. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) At any time during the taking of the deposition, on motion of any party or of the deponent, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the superior court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b) of this section. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses, including attorney's fees, as the court may deem reasonable.

(e) Unless the parties agree on the record to another procedure for reading, correcting, and signing the original of the deposition, when the testimony is fully transcribed the officer shall notify the deponent and counsel in writing that the original of the deposition is available for reading, correcting and signing at the office of the officer, and shall remain so available during business hours of business days for a period of 30 calendar days following such notification. The examination and reading of the transcribed testimony may be waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition. The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following the notification prescribed in this subdivision by means of a letter addressed and mailed or delivered to the transcribing officer indicating any changes to be made, approval, or refusal to approve the deposition. Such changes, approval, or refusal to approve the deposition, when made by letter, shall be equivalent to personal changes, approval, or refusal to approve the deposition.

If the deponent fails to appear at the office of the officer or notify him by letter as provided in this subdivision within such 30-day

period, or if the witness so appears or sends such letter but refuses to approve or sign the deposition, the officer shall indicate on the original the fact that the deponent failed to appear, or the fact that the deponent refused to sign together with any reason given therefor. Thereafter the deposition shall have the same force and effect as though it had been read, corrected and signed by the deponent, unless on a motion to suppress under subdivision (d) of Section 2021 of this code the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) (1) The officer shall certify on the deposition and each copy thereof that the witness was duly sworn by such officer and that the deposition is a true record of the testimony given by the witness. Promptly upon the correction, approval, or refusal to approve the deposition, or upon the expiration of 30 calendar days following notification to the witness that the deposition is available for reading, correcting and signing, the officer shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)". Depositions shall not be filed unless and until their contents become relevant to an issue in the trial or other pending proceedings at which time the court may order that the deposition or a copy thereof certified by the officer, reflecting any changes made by the witness, be filed as part of the record.

(2) The officer taking the deposition shall give prompt notice to all parties of (i) the availability of the deposition for reading, correction, and approval; and (ii) all changes in the deposition made by the witness. Upon request made before the delivery or mailing of the deposition and payment of reasonable charges therefor, the officer shall furnish a certified copy of the deposition to any party to the action or to the deponent.

(3) Unless the parties agree on the record that the party noticing the deposition shall do so, the officer taking the deposition shall keep the deposition for six months following the final disposition of the case. If the officer discontinues his or her occupation of taking depositions, by reason of death or otherwise, the officer or an agent of the officer shall file the deposition with the court.

Whenever a deposition is taken out of this state pursuant to Section 2024, or by stipulation of the parties, the officer before whom the deposition is taken shall, by accepting the commission or undertaking to act pursuant to agreement, be deemed to have consented to be bound by all provisions of this code relating to the reporting, transcribing, certification, copying, signing, refusal to sign or change, sealing, and custody of the deposition, unless otherwise agreed by the parties on the record.

Notwithstanding paragraph (1) of subdivision (f), if the officer before whom such a deposition is taken is not a shorthand reporter having in this state a place of business where the deposition will be kept, the officer shall promptly upon sealing, send the deposition to

the clerk of the court in which the action is pending for filing, unless the parties agree on record to the contrary. The clerk shall accept and file the deposition.

A reasonable filing fee, as determined by the Judicial Council, may be charged by the clerk for filing a deposition. In the event a filing fee is charged, the fee shall be paid to the officer at the time the deposition is taken by the party noticing it or by stipulation, and the officer shall pay the fee to the clerk at the time of filing.

(g) (1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 3297 are both chaptered and become effective January 1, 1981, both bills amend Section 2019 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill 3297, that the amendments to Section 2019 proposed by both bills be given effect and incorporated in Section 2019 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 3297 are both chaptered and become effective January 1, 1981, both amend Section 2019, and this bill is chaptered after Assembly Bill 3297, in which case Section 1 of this act shall not become operative.

CHAPTER 971

An act to add Article 6 (commencing with Section 19180) to Chapter 2 of Part 3 of Division 13 of the Health and Safety Code, relating to earthquakes, and making an appropriation therefor.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Article 6 (commencing with Section 19180) is added to Chapter 2 of Part 3 of Division 13 of the Health and Safety Code, to read:

Article 6. Seismic Gas Shutoff

19180. The Legislature finds and declares that:

(a) It is generally accepted that various areas of the state will experience moderate and severe earthquakes in the foreseeable future.

(b) A serious threat to life and property resulting from these earthquakes is the threat of fire resulting from earthquake damage.

(c) In order to mitigate, as much as possible, the effects of a major earthquake, including fire resulting from an earthquake, local governments should be authorized to adopt ordinances requiring installation of earthquake sensitive gas shutoff valves in buildings.

19181. Notwithstanding any other provision of law, the governing body of any city, county, or city and county may enact an ordinance requiring the installation of earthquake sensitive gas shutoff valves in buildings open to the public. Any ordinance adopted pursuant to this section shall conform to standards adopted by the State Architect pursuant to Section 19182.

19182. (a) The State Architect shall, on or before July 1, 1981, adopt standards governing earthquake sensitive gas shutoff valves for installation in buildings. Such standards shall reasonably provide for convenient installation and maintenance of gas shutoff valves, as well as maintaining the safety of persons occupying buildings equipped with such valves.

(b) In adopting standards pursuant to this section, the State Architect shall consider standards for such valves developed by the Z-21 American National Standards Committee and the comments or suggestions from various public utilities.

19183. (a) Manufacturers of earthquake sensitive gas shutoff valves or other devices required by an ordinance adopted pursuant to Section 19182, shall first obtain certification that the device meets the standards established pursuant to Section 19182 prior to offering such device for sale in the state.

(b) The State Architect shall establish a certification procedure for earthquake sensitive gas shutoff devices and shall establish a fee for such certification. Fees imposed pursuant to this subdivision shall be equal to the costs associated with making the certification and are continuously appropriated to the State Architect for administering the certification program.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and

Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 972

An act to amend Sections 5650, 5751, 5751.2, 5751.3, and 5763 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. On or before March 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, an annual county Short-Doyle plan for the next fiscal year for mental health services in the county or counties. The county plan submitted shall be compatible with the budget for the next fiscal year submitted by the Governor to the Legislature. The purpose of a county plan shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle plan shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle plan shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, marriage, family and child counselors, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship

dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The Director of Mental Health shall develop standard forms to be used by the counties in the submitting of the county plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

SEC. 2. Section 5751 of the Welfare and Institutions Code is amended to read:

5751. The Director of Mental Health, after approval by the California Conference of Local Mental Health Directors, shall by regulation establish standards of education and experience for professional, administrative, and technical personnel employed in mental health services and for the organization and operation of mental health services. No regulations shall be adopted by the state or any county, nor shall any procedures be implemented by a local mental health program or contract agency, which prohibit a psychiatrist, psychologist, clinical social worker, or marriage, family and child counselor from employment in a local mental health program in any professional, administrative or technical positions in mental health services, provided that any service delivery functions shall be performed within the scope of his or her license. No person shall be considered for any position which is outside his or her scope of licensure.

This section shall not require the hiring of any person. The administrators of the Short-Doyle program shall be responsible for determining who is hired.

Appointments of directors, program chiefs, and comparable positions, and unit or treatment team leaders shall be made on the basis of professional competence. No local program or its contractors may restrict such appointments to one discipline. Each local program and its contractors shall consider applications from, and make appointments equally open to, all professions that are eligible pursuant to this section.

Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. Such standards may include the maintenance of records of service which shall be reported to the State Department of Mental Health in a manner and at such times as it may specify.

Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker, marriage, family and child counselor, or hospital administrator, who meets standards of education and experience established by the Director of Mental Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of the Government Code.

SEC. 3. Section 5751.2 of the Welfare and Institutions Code is amended to read:

5751.2. In order to make maximum use of the professional skills of any physician, psychiatrist, psychologist, clinical social worker, or marriage, family and child counselor with clinical program responsibility in any local mental health service which serves a population in excess of 100,000, the local mental health service shall have one or more staff skilled in the management of administrative support functions who shall be responsible for the planning, development, direction, management, and supervision of all administrative and supportive services in such a local mental health service. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. Such services include, but are not limited to:

(1) All administrative functions such as personnel, accounting, budgeting, and patients' accounts.

(2) All life-support functions such as food services, facility maintenance, and patient supplies.

(3) All other business and security functions.

SEC. 4. Section 5751.3 of the Welfare and Institutions Code is amended to read:

5751.3. No regulations shall be adopted by the Director of Mental Health which prohibit a psychiatrist, psychologist, clinical social worker, or marriage, family and child counselor from employment in a local mental health program in any professional, administrative, or technical positions in mental health services, provided that any service delivery functions shall be performed within the scope of his or her license.

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for

licensure on January 1, 1981.

SEC. 5. Section 5763 of the Welfare and Institutions Code is amended to read:

5763. There is a Citizens Advisory Council to advise and assist the Legislature and the Director of Mental Health in carrying out the provisions of this division. The State Department of Mental Health shall cooperate fully with the Citizens Advisory Council by rendering efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its powers and duties.

The attachment of the Citizens Advisory Council to the State Department of Mental Health shall not limit the council's scope of concern to mental health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in subdivision (c) of Section 5764.

The administrative attachment of the council to the State Department of Mental Health shall not be construed to interfere in any way with the provisions of Section 5766.2 requiring all personnel employed by the council to be responsible to the council.

The council shall consist of fifteen (15) appointed voting members. There shall be one member who shall be a member of the California Conference of Local Mental Health Directors. There shall be five members chosen from among the following professions: general medicine, psychiatry, psychology, social work, marriage, family and child counseling, sociology, nursing, and mental health administration. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. No more than one appointee from each of these categories shall be selected. Nine members shall be representative of the public interest in mental health of which at least four shall be consumers or the parent, spouse, or adult offspring of persons who have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital or any other public or private nonprofit mental health agency. At least one of the public interest members shall be a local mental health advisory board member at the time of appointment; one shall be a member of a county board of supervisors; one shall be a lawyer and one shall be an expert in fiscal management. No public interest members shall be members of the professions named above.

Appointments shall reflect a balance of geographic, ethnic, racial, age, linguistic, socioeconomic and sexual factors. Appointees shall have a demonstrated interest in and knowledge of statewide mental health services.

The Governor shall appoint the following nine (9) members of the council: two professional members who are not psychiatrists, and

four members of the public who are persons or the parent, spouse, or adult offspring of persons who have received mental health services and three public members who are not consumers. The Chair of the Senate Rules Committee shall appoint the following three (3) members of the council: one psychiatrist; one professional member who is not a psychiatrist; and one member of the general public who is not a consumer. None of the members or the spouse of a member shall be an employee of a state department within the Health and Welfare Agency. The Speaker of the Assembly shall appoint the following three (3) members of the council: two (2) professional members and one (1) member of the general public who is not a consumer. Each member shall hold office for three years.

If prior to the expiration of a term a member ceases to retain the status which qualified him or her for appointment on the council, his or her membership on the council shall terminate and there shall be a vacancy on the council.

Notwithstanding any provision of this section, members serving on the Citizens Advisory Council on the effective date of the amendments made to this section during the 1977–78 legislative session, shall continue to serve until expiration of their terms. The changes in the composition of the council required by such amendments apply only to future vacancies.

The members of the Citizens Advisory Council shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter.

The Citizens Advisory Council shall meet at least quarterly, and on call of the council chairman as often as necessary to fulfill its duties. All meetings and records of the Citizens Advisory Council shall be open to the public.

The Citizens Advisory Council shall, by majority vote of the voting members, elect its own chair from among the 15 appointed members, and shall establish such committees as it deems necessary or desirable. The council chair shall appoint all members of committees of the Citizens Advisory Council.

CHAPTER 973

An act to amend Section 1373 of the Health and Safety Code, and to amend Sections 10176, 10177, and 11512.8 of the Insurance Code, relating to insurance.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific

benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of such services. No plan shall prohibit the member from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, any marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, a licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. Nothing in this section shall be construed to allow a member

to select and obtain mental health services or vision care services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan or specialized health care service plan to which the member belongs.

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 2. Section 10176 of the Insurance Code is amended to read:

10176. In disability insurance the policy may provide for payment of medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses upon a reimbursement basis, or for the exclusion of any such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the insured first pay such expenses. No such policy shall prohibit the insured from selecting any psychologist or other person who is the holder of a certificate or license under Section 1000, 1634, 2135, 2553, 2630, 2948, or 3055 of the Business and Professions Code to perform the particular services covered under the terms of the policy, such certificate holder or licensee being expressly authorized by law to perform such services.

Nor shall any such policy prohibit the insured, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, from selecting any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any occupational therapist as specified in Section 2570 of the Business and Professions Code, or any marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, or from selecting any speech pathologist or audiologist licensed under Section 2530 of the Business and Professions Code to perform services deemed necessary by the referring physician, such certificate holder, licensee or otherwise regulated person, being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is

equivalent to the instruction required for licensure on January 1, 1981.

SEC. 3. Section 10177 of the Insurance Code is amended to read:

10177. A self-insured employee welfare benefit plan may provide for payment of professional mental health expenses upon a reimbursement basis, or for the exclusion of such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the employee first pay such expenses. No such plan shall prohibit the employee from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any marriage, family, and child counselor who is the holder of a certificate or license under Section 17805 of the Business and Professions Code, to perform the particular services covered under the terms of the plan, such certificate or license holder being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional services beyond his or her field or fields of competence as established by his or her education, training, and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

SEC. 4. Section 11512.8 of the Insurance Code is amended to read:

11512.8. A hospital service contract may provide for payment of professional mental health expenses upon a reimbursement basis, or for the exclusion of such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the employee first pay such expenses. No such contract shall prohibit the subscriber from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, to perform the particular services covered under the terms of the contract, such certificate or license holder being expressly authorized by law to perform such services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

CHAPTER 974

An act to amend Sections 12216, 12221, 14154, 14155, 14205, 17209, 17209.3, 18116, 18117, 22210, 24051, 24206, and 24210 of, to add Section 18349 to, and to repeal Section 18349 of, the Financial Code, and to amend Sections 1386 and 1388 of the Health and Safety Code, relating to regulated institutions.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 12216 of the Financial Code is amended to read:

12216. Upon the filing of the application and the payment of the fees and the approval of the bond, the commissioner shall investigate the applicant and of the members thereof if the applicant is a partnership or association, and the officers and directors thereof if the applicant is a corporation. If the commissioner determines that the applicant has satisfied the provisions of this division and does not find facts constituting reasons for denial as specified in Section 12221, the commissioner shall issue and deliver a license to the applicant to engage in business in accordance with the provisions of this division.

SEC. 2. Section 12221 of the Financial Code is amended to read:

12221. Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for the license for any of the following reasons:

(a) A false statement of a material fact has been made in the application for license.

(b) Any officer, director, or member of the applicant has, within the last 10 years, been (1) convicted of or pleaded nolo contendere to a crime, or (2) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division.

(c) The applicant or any officer, director, or member of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

SEC. 3. Section 14154 of the Financial Code is amended to read:

14154. If the commissioner determines that the applicant has satisfied the provisions of this division and does not find facts constituting reasons for denial as specified in Section 14155, the commissioner shall issue and deliver a certificate to the applicant to engage in business in accordance with the provisions of this division.

SEC. 4. Section 14155 of the Financial Code is amended to read:

14155. Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for certificate for any of the following reasons:

(a) The field of membership of the applicant is contrary to the principles of organizing credit unions based on common bond of employment, membership, or residence. This shall not prohibit the commissioner from issuing a certificate authorizing a credit union for an association or associations of employers located in one reasonably compact geographical area.

(b) The field of membership substantially encroaches upon that of an existing credit union to such extent that it will probably impair the successful operation of either credit union.

(c) The number of persons eligible for membership is less than 200.

(d) A false statement of a material fact has been made in the application for certificate.

(e) Any officer, director, or committee member of the applicant has, within the last 10 years, been (1) convicted of or pleaded nolo contendere to a crime, or (2) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division.

(f) The applicant or any officer, director, or committee member of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

(g) The applicant's showing as to the economic feasibility of the proposed credit union is inadequate.

SEC. 5. Section 14205 of the Financial Code is amended to read:

14205. The commissioner may, upon reasonable notice and opportunity to be heard, suspend or revoke any certificate if the commissioner finds that the credit union has violated any provisions of this division or any rule or regulation of the commissioner made pursuant to this division, or if any fact or condition exists which, if it had existed at the time of the original application for certificate, reasonably would have warranted the commissioner in refusing originally to issue such certificate.

SEC. 6. Section 17209 of the Financial Code is amended to read:

17209. An application for a license as an escrow agent shall be signed and verified by an authorized officer of the applicant, and

such application shall be accompanied by a certified copy of the articles of incorporation and a copy of the bylaws of the proposed licensee. The application shall set forth:

(a) The names and addresses of the incorporators, directors, and officers.

(b) An itemized statement of the estimated receipts and expenditures of the proposed first year of operations.

(c) An audited financial statement showing compliance with Section 17210.

(d) A showing that the public convenience and advantage will be promoted by the establishment of the proposed licensee.

(e) The name and address of the person, or persons, meeting the requirements of Section 17200.8, and a statement supporting such persons' qualifications.

(f) Any other matters the commissioner may require.

SEC. 7. Section 17209.3 of the Financial Code is amended to read:

17209.3. The commissioner may refuse to issue any license being applied for, and shall refuse to issue any license being applied for if upon his examination and investigation, and after appropriate hearing, he finds any of the following:

(a) That the corporation is to be formed for any business other than legitimate escrow agent services, or proposes to use a name that is misleading or in conflict with the name of an existing licensee.

(b) That any incorporator, officer, or director of the applicant has, within the last 10 years, been (1) convicted of or pleaded nolo contendere to a crime, or (2) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division.

(c) That there is no officer or manager possessing a minimum of five years of responsible escrow experience to be stationed in the proposed business location.

(d) That the proposed licensee's financial program is unsound.

(e) A false statement of a material fact has been made in the application for license.

(f) The applicant or any officer, director, or incorporator of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

SEC. 8. Section 18116 of the Financial Code is amended to read:

18116. Upon the filing of an application, the commissioner shall make or cause to be made a careful investigation and examination relative to the following:

(a) The background and experience of the organizers or incorporators, the proposed officers and managers, and the proposed stockholders and directors.

(b) The need for industrial loan facilities or additional industrial loan facilities, as the case may be, in the community where the proposed industrial loan company is to be located, giving particular consideration to the adequacy of existing industrial loan facilities in

the community.

(c) The ability of the community to support the proposed industrial loan company, giving consideration to (1) the competition offered by existing industrial loan companies; (2) the previous industrial loan history of the community; and (3) the opportunities for profitable employment of industrial loan funds as indicated by the average demand for credit, the number of potential investors, the volume of industrial loan transactions and the business and industries of the community with particular regard to their stability, diversification and size.

(d) Such other facts and circumstances bearing on the proposed industrial loan company as in the opinion of the commissioner may be relevant.

SEC. 9. Section 18117 of the Financial Code is amended to read:

18117. The commissioner, upon reasonable notice and opportunity to be heard, may deny the application for any of the following reasons:

(a) The public convenience and advantage will not be promoted by the establishment of the proposed industrial loan company.

(b) The industrial loan company is being formed for a purpose other than the legitimate objectives contemplated by this division.

(c) The proposed capital structure is inadequate.

(d) Any proposed officer, director, or shareholder of the applicant has, within the last 10 years, (1) been convicted of or pleaded nolo contendere to a crime, or (2) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division.

(e) The applicant has not complied with all the applicable provisions of this division.

(f) The proposed officers and directors do not have sufficient banking, industrial loan, finance company, or other experience to afford reasonable promise of successful operation.

(g) A false statement of a material fact has been made in the application.

(h) The applicant or any officer, director, or incorporator of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

SEC. 10. Section 18349 of the Financial Code is repealed.

SEC. 11. Section 18349 is added to the Financial Code, to read:

18349. The commissioner may, upon reasonable notice and opportunity to be heard, suspend or revoke the license of an industrial loan company if the commissioner finds that the industrial loan company has violated any provision of this division or any rule or regulation of the commissioner made pursuant to this division, or if any factor or condition exists which, if it had existed at the time of the original application for a license, reasonably would have warranted the commissioner in refusing originally to issue such license.

SEC. 12. Section 22210 of the Financial Code is amended to read:

22210. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for any of the following reasons: (1) a false statement of a material fact has been made in the application; (2) any officer, director, or member of the applicant has, within the last 10 years, (i) been convicted of or pleaded nolo contendere to a crime, or (ii) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division; (3) the applicant or any officer, director, or member of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme cf a foreign jurisdiction.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in such application within 90 days of the date of such notification.

(c) The commissioner shall within 60 days from the filing of a full and complete application for a license with the fees, either issue a license or file a statement of issues prepared in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code.

SEC. 12.5. Section 24051 of the Financial Code is amended to read:

24051. This division does not apply to the following:

(a) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(b) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business.

(c) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(d) Any public utility subject to regulation by the Public Utilities Commission in loaning or advancing money pursuant to the Home Insulation Assistance and Financing Act.

SEC. 13. Section 24206 of the Financial Code is amended to read:

24206. Upon the filing of the application and the payment of the fees, the commissioner shall investigate the applicant, and its general partners if the applicant is a partnership, and its officers and directors if the applicant is a corporation or association. If the commissioner determines that the applicant has satisfied the provisions of this division and does not find facts constituting reasons for denial as

specified in Section 24210, the commissioner shall issue and deliver a license to the applicant to engage in business in accordance with the provisions of this division at the location specified in the application.

SEC. 14. Section 24210 of the Financial Code is amended to read:

24210. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for any of the following reasons: (1) a false statement of a material fact has been made in the application; (2) any officer, director, or member of the applicant has, within the last 10 years, (i) been convicted of or pleaded nolo contendere to a crime, or (ii) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of the division; (3) the applicant or any officer, director, or member of the applicant has violated any provision of this division or the rules thereunder of any similar regulatory scheme of a foreign jurisdiction.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in such application within 90 days of the date of such notification.

(c) The commissioner shall within 60 days from the filing of a full and complete application for a license with the fees, either issue a license or file a statement of issues prepared in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code.

SEC. 15. Section 1386 of the Health and Safety Code is amended to read:

1386. (a) The commissioner may suspend or revoke any license issued under this chapter to a health care service plan or assess civil penalties if the commissioner determines that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action.

(b) The following acts or omissions constitute grounds for disciplinary action by the commissioner:

(1) The plan is operating at variance with the basic organizational documents as filed pursuant to Section 1351 or 1352, or with its published plan, or in any manner contrary to that described in, and reasonably inferred, from the plan as contained in its application for licensure and annual report, or any modification thereof, unless amendments allowing such variation have been submitted to, and approved by, the commissioner.

(2) The plan has issued, or permits others to use, evidence of coverage or uses a schedule of charges for health care services which do not comply with those published in the latest evidence of coverage found unobjectionable by the commissioner.

(3) The health care service plan does not provide basic health care services to its enrollees and subscribers as set forth in the evidence of coverage. This subdivision shall not apply to specialized

health care service plan contracts.

(4) The plan is no longer able to meet the standards set forth in Article 5 (commencing with Section 1369).

(5) The continued operation of the plan will constitute a substantial risk to its subscribers and enrollees.

(6) The plan has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter or any rule or regulation adopted by the commissioner pursuant to this chapter.

(7) The plan has engaged in any conduct which constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of the Business and Professions Code.

(8) The plan has permitted, or aided or abetted any violation by an employee or contractor who is a holder of any certificate, license, permit, registration or exemption issued pursuant to the Business and Professions Code, or the Health and Safety Code which would constitute grounds for discipline against such certificate, license, permit, registration, or exemption.

(9) The plan has aided or abetted or permitted the commission of any illegal act.

(10) The engagement of a person as an officer, director, employee, associate, or provider of the plan contrary to the provisions of an order issued by the commissioner pursuant to subdivision (c) of this section or subdivision (d) of Section 1388.

(11) The engagement of a person as a solicitor or supervisor of solicitation contrary to the provisions of an order issued by the commissioner pursuant to Section 1388.

(12) The plan, its management company, or any other affiliate of the plan, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in such plan, management company or affiliate, has been convicted of or pleaded nolo contendere to a crime, or committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions or duties of a person engaged in business in accordance with the provisions of this chapter. The commissioner may revoke or deny a license hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) The commissioner may prohibit any person from serving as an officer, director, employee, associate, or provider of any plan or solicitor firm, or as a solicitor, if such person was an officer, director, employee, associate, or provider of a plan whose license has been suspended or revoked pursuant to this section and such person had knowledge of, or participated in, any of the prohibited acts for which such license was suspended or revoked. A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a plan under this section or may constitute a separate proceeding, subject in either case to appropriate notice and opportunity for hearing to the person affected in accordance with

the provisions of subdivision (a) of Section 1397.

SEC. 16. Section 1388 of the Health and Safety Code is amended to read:

1388. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure a person acting as a solicitor or solicitor firm, or suspend for a period not exceeding 24 months or bar a person from operating as a solicitor or solicitor firm, or assess civil penalties against a person acting as a solicitor or solicitor firm if the commissioner determines that such person has committed any of the acts or omissions constituting grounds for disciplinary action.

(b) The following acts or omissions constitute grounds for disciplinary action by the commissioner:

(1) The continued operation of the solicitor or solicitor firm in a manner which may constitute a substantial risk to a plan or subscribers and enrollees.

(2) The solicitor or solicitor firm has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter or any rule or regulation adopted by the commissioner pursuant to the chapter.

(3) The solicitor or solicitor firm has engaged in any conduct which constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of the Business and Professions Code.

(4) The engagement of a person as an officer, director, employee, or associate of the solicitor firm contrary to the provisions of an order issued by the commissioner pursuant to subdivision (d) of this section or subdivision (c) of Section 1386.

(5) The solicitor or solicitor firm, or its management company, or any other affiliate of the solicitor firm, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in such solicitor firm, management company or affiliate, has been convicted or pleaded nolo contendere to a crime, or committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions or duties of a person engaged in business in accordance with the provisions of this chapter. The commissioner may issue an order hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) The commissioner shall notify plans of any order issued pursuant to subdivision (a) which suspends or bars a person from engaging in operations as a solicitor or solicitor firm. It shall be unlawful for any plan, after receipt of notice of such an order, to receive any new subscribers or enrollees through such a person or to otherwise utilize any solicitation services of such person in violation thereof.

(d) The commissioner may prohibit any person from serving as an officer, director, employee, or associate of any plan or solicitor firm, or as a solicitor, if such person was an officer, director, employee, or

associate of a solicitor firm which has been the subject of an order of suspension or bar from engaging in operations as a solicitor firm pursuant to this section and such person had knowledge of, or participated in, any of the prohibited acts for which such order was issued. A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a solicitor firm under this section or may constitute a separate proceeding, subject in either case to appropriate notice and opportunity for hearing to the person affected in accordance with the provisions of subdivision (a) of Section 1397.

CHAPTER 975

An act to amend Section 48980 of, and to add Section 49520 to, the Education Code, relating to school nutrition.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 49520 is added to the Education Code, to read:

49520. Notice of the availability of the program prescribed by this article shall be given pursuant to Section 48980.

SEC. 2. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right of the parent or guardian under Sections 46014, 48205, 49403, 49423, 49451, 49472, 51240, 51550, and Article 3 (commencing with Section 56030) of Chapter 1 of Part 30.

(b) Such notification shall also advise the parent or guardian of the availability of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 976

An act to amend Section 1987.1 of, and to add Section 1985.3 to, the Code of Civil Procedure, relating to subpoenas.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 1985.3 is added to the Code of Civil Procedure, to read:

1985.3. (a) For purposes of this section, the following definitions apply:

(1) "Personal records" means the original or any copy of books, documents or other things pertaining to a consumer and which are maintained by any "witness" which is a physician, hospital, state or national bank, state or federally chartered savings and loan association, state or federal credit union, trust company, insurance company, attorney, or accountant.

(2) "Consumer" means any individual, partnership of five or fewer persons, association, or trust which has transacted business with or has used the services of such witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding, but shall not include the state or local agencies described in Section 7465 of the Government Code.

(b) Except as provided in subdivision (e) or (f), when a subpoena duces tecum requiring the production of personal records is served upon any witness in this state, at least 15 days prior to the date called for in the subpoena duces tecum for such production, the subpoenaing party shall do both of the following:

(1) Give constructive notice to the consumer whose records are being sought by delivering a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, and of the notice described in subdivision (c) to him personally, or at his last known address, or, if he is a party, to his attorney of record, or by certified mail, return receipt requested, to his last known address in accordance with Chapter 5 (commencing with Section 1010) of Title 14.

(2) Simultaneously with service of the subpoena duces tecum, serve upon the witness a certificate signed by the subpoenaing party or his attorney, attesting to compliance with paragraph (1).

(c) Every copy of the subpoena duces tecum and affidavit served on a consumer or his attorney in accordance with paragraph (1) of subdivision (b) shall be accompanied by a notice in a typeface designed to call attention to the notice indicating that (1) records about the consumer are being sought from the witness named on the

attached subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court within 10 days from the receipt of the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting the right of privacy.

(d) Any consumer whose personal records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. No witness shall be required to produce personal records after receipt of a notice that such a motion has been brought, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.

(e) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(f) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which does require a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

SEC. 2. Section 1987.1 of the Code of Civil Procedure is amended to read:

1987.1. When a subpoena requires the attendance of a witness or the production of books, documents or other things before a court, or at the trial of an issue therein, or at the taking of a deposition, the court, upon motion reasonably made by the party, the witness, or any consumer described in Section 1985.3, or upon the court's own motion after giving counsel notice and an opportunity to be heard, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare. In addition, the court may make any other order as may be appropriate to protect the parties, the witness, or the consumer from unreasonable or oppressive demands including unreasonable violations of a witness's or consumer's right of privacy. Nothing herein shall require any witness or party to move to quash, modify, or condition any subpoena duces tecum of personal records of any consumer served under paragraph (1) of subdivision (b) of Section 1985.3.

SEC. 3. This act shall become operative on July 1, 1981.

CHAPTER 977

An act to amend Sections 14510, 14511, 14512, 14529, 14531, 14533, and 14534 of the Government Code, and to amend Sections 167 and 168 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Section 14510 of the Government Code is amended to read:

14510. The commission shall appoint an executive director for the commission who shall serve at the pleasure of the commission.

The executive director shall receive the salary established by the Director of Finance for exempt officials.

SEC. 2. Section 14511 of the Government Code is amended to read:

14511. The executive director shall administer the affairs of the commission as directed by the commission and shall direct the staff of the commission.

SEC. 3. Section 14512 of the Government Code is amended to read:

14512. The executive director may appoint, with the approval of the commission, such staff as necessary to carry out the provisions of this part.

The commission may request the department, and the department shall have the authority, to perform such work as the commission deems necessary to carry out its duties and responsibilities. The commission shall consider the expertise and resources available in the department for the purpose of carrying out its duties and responsibilities. This does not preclude, however, the commission from utilizing the services of other agencies, public or private.

SEC. 4. Section 14529 of the Government Code is amended to read:

14529. After taking into consideration the existing adopted state transportation improvement program, the proposed state transportation improvement program submitted by the department pursuant to Section 14526, the regional transportation improvement programs submitted pursuant to Section 14527, and comments submitted pursuant to Section 14528, through the use of public hearings, the commission shall adopt and submit to the Legislature and Governor by July 1, 1979, and not later than July 1 of each year thereafter, a five-year state transportation improvement program including all funds to be allocated by the commission consisting of:

(a) The estimate of available funds from state and federal sources and associated constraints for transportation improvement in the

state.

(b) All major projects, as determined by the commission, to be funded from state transportation funds allocated by the commission during the succeeding five fiscal years.

(c) A summary of expenditures for minor projects, as determined by the commission, to be funded from state transportation funds allocated by the commission during the succeeding five fiscal years.

(d) Recommended annual expenditures from the State Highway Account in the State Transportation Fund by program category, as set forth in the Budget Act, for the succeeding five fiscal years.

(e) Any additional action and information determined by the commission to be relevant to the successful implementation of the adopted state transportation improvement program.

The state transportation improvement program shall be consistent with the estimate of available revenues.

SEC. 5. Section 14531 of the Government Code is amended to read:

14531. Appeals regarding the adopted state transportation improvement program shall be made directly to the commission. Appeals submitted to the commission by August 1 shall be considered by the commission at a public hearing held not later than the following August 15. The commission may amend the state transportation improvement program as it deems appropriate; provided, that all such proposed amendments are noticed to the public at least 30 calendar days before the commission takes formal action regarding such proposed amendments. Amendments resulting from appeals shall be exempt from such notice requirement.

SEC. 6. Section 14533 of the Government Code is amended to read:

14533. The commission shall allocate funds for transportation projects consistent with those provisions of the current and prior Budget Acts that apply to the use of the appropriated funds to be allocated. The commission shall not allocate funds for major projects that are not included in either its adopted state transportation improvements program or in the first year of its previously adopted program except when the allocation is necessary for a response to an emergency condition which has placed either people or property in jeopardy or which has caused or threatens to cause closure of a critical state transportation facility or access to it.

SEC. 7. Section 14534 of the Government Code is amended to read:

14534. Upon the adoption of the state transportation improvement program, the Secretary of the Business and Transportation Agency, the commission, and the department shall act in accordance with the program in carrying out their respective powers and duties, except as otherwise provided by law.

The existing adopted state transportation improvement program shall remain in effect until a new state transportation improvement

program is adopted by the commission.

SEC. 8. Section 167 of the Streets and Highways Code is amended to read:

167. With respect to the funds in the State Highway Account in the State Transportation Fund, the proposed budget shall be organized on a program basis. The proposed budget shall list the proposed expenditures for the highway program under the following program elements:

(a) Administration.
(b) Program development.
(c) Maintenance.
(d) Operation.
(e) Rehabilitation.
(f) Operational improvements.
(g) New facilities.
(h) Local assistance.

The basis for defining major and minor capital outlay projects shall be established by the commission.

SEC. 9. Section 168 of the Streets and Highways Code is amended to read:

168. During the fiscal year, the department, with the approval of the commission, may transfer funds appropriated from the State Highway Account in the State Transportation Fund between programs and between program elements.

Such transfers shall not decrease the amount of such funds to be expended for any of such programs or program elements by more than 10 percent of the total amount appropriated and identified in the appropriation schedules.

Such transfers may only be made with the approval of the commission and the Director of Finance and after submitting a five-day notice of intent to make such transfers to the chairman of the committee in each house of the Legislature which considers appropriations and to the Chairman of the Joint Legislative Budget Committee.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make needed changes in the administration of the California Transportation Commission, the state transportation improvement program process, and the allocation of funds by the commission at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 978

An act to add Section 307.2 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 18, 1980. Filed with Secretary of State September 19, 1980.]

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

SECTION 1. Section 307.2 is added to the Streets and Highways Code, to read:

307.2. If the Cities of Los Angeles, Pasadena, and South Pasadena, and the Los Angeles County Transportation Commission reach an agreement within two years after the effective date of this section as to the location to be adopted for the portion of Route 7 between Routes 10 and 210, the department shall take the necessary steps to remove that portion of Route 7 from the federal aid urban system and place it in the federal aid primary system.

CHAPTER 979

An act to add Article 3 (commencing with Section 11140) to Chapter 3 of Division 10 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 18, 1980 Filed with Secretary of State September 19, 1980]

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

SECTION 1. Article 3 (commencing with Section 11140) is added to Chapter 3 of Division 10 of the Health and Safety Code, to read:

Article 3. Registration of Dealers and Users of Piperidine

11140. The sheriff of each county, in accordance with regulations of the Attorney General, shall maintain a system of registration for persons who sell, purchase, or possess piperidine within the incorporated or unincorporated territory of the county. The regulations of the Attorney General shall prescribe uniform criteria for the issuance of registrations under this article, and shall include a standardized application form and the form of certificates evidencing registration. It shall be unlawful for any person to knowingly sell, purchase, or possess piperidine without having a valid and subsisting registration pursuant to this section. It shall be unlawful for any person to knowingly sell piperidine to, or to purchase piperidine from, any other person who does not possess a

valid and subsisting registration to engage in such transaction.

A person convicted of a second or subsequent violation of this section shall be punished by imprisonment in the county jail for a period of six months or by imprisonment in the state prison.

The sheriff shall require registrants to comply with such reasonable conditions of registration as may be required by regulations of the Attorney General to prevent diversion of piperidine for the unlawful manufacture of phencyclidine. The sheriff may revoke the registration of any registrant who fails to comply with a condition of registration.

The sheriff may require a fee for each registration under this section for the purpose of defraying the costs of administering this article. Such fees shall not exceed one hundred dollars ($100).

Nothing in this section shall require a person registered to sell, purchase, or possess piperidine in one county to obtain additional registration in order to sell, purchase, or possess piperidine in another county.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 980

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500), Division 7, Title 1 of the Government Code.

Air pollution control districts.
Air quality management districts.
Airport districts.
Assessment districts.
Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100), Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.

Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.

Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and

be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to

supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any grounds involving an alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of said matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the First Validating Act of 1980.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

To validate the organization boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 981

An act relating to school finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Due to an error in the computation of apportionments for apprenticeship programs at the United States Steel Plant, and the disbursements thereof, for the 1976–77, 1977–78, and 1978–79 fiscal years, the Pittsburg Unified School District received an apportionment overpayment of approximately ninety-one thousand eight hundred fifty-eight dollars ($91,858).

The Superintendent of Public Instruction, pursuant to Section 41341 of the Education Code, has withheld the entire amount from the 1979–80 fiscal year apportionments to the district. Such a withholding will require a drastic reduction in the educational programs of the district, causing irreparable damage to the pupils' welfare.

SEC. 2. The Legislature finds that the unique circumstances in the Pittsburg Unified School District require immediate and special legislation and that a general statute cannot be made applicable to these circumstances within the meaning of Section 16 of Article IV of the California Constitution. The provision for repayment of the apportionment overpayment made by Section 3 of this act is made in view of the unique circumstances in the Pittsburg Unified School District, and is made for that purpose only. It is not the intention of the Legislature to establish a precedent with respect to the repayment procedure made by this act, but rather to assist in a situation involving unique circumstances when appropriate justification for such assistance has been found.

SEC. 3. Notwithstanding any other provision of law to the contrary, the Superintendent of Public Instruction shall, during the 1980–81, 1981–82, and 1982–83 fiscal years, withhold from the apportionments for adult education to be made to the Pittsburg Unified School District in each of those years an amount equal to one-third of the amount specified in Section 1 of this act, together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the effective date of this act. No amounts shall be withheld in

the 1979–80 fiscal year on account of the apportionment overpayment, and the Superintendent of Public Instruction shall correct the computed allowances and apportionments for the district to offset amounts withheld in the 1979–80 fiscal year prior to the effective date of this act.

SEC. 4. Neither Section 42245 of the Education Code, nor any other provision of law, shall operate to make any adjustment in state apportionments or allowances to the Pittsburg Unified School District other than those specifically required by this act for the apportionment overpayment described in Section 1 of this act.

SEC. 5. The withholding prescribed by Section 3 of this act shall be directed to the end that the entire amount of the apportionment overpayment specified in Section 1 of this act, plus interest, shall have been recouped by the state by the end of the 1982–83 fiscal year. In no event shall an amount greater than the amount specified in Section 1 of this act, plus interest, be withheld from apportionments made to the district.

SEC. 6. The Pittsburg Unified School District shall comply with the provisions of Sections 41320, 41321, and 41322 of the Education Code. The district shall reimburse the county superintendent of schools for any additional costs incurred by the county superintendent in carrying out the requirements of Sections 41320 and 41322.

SEC. 7. (a) There is hereby appropriated from the General Fund to the Superintendent of Public Instruction the sum of one hundred thousand dollars ($100,000) for apportionment to the Riverdale Joint Union High School District in the 1980–81 fiscal year.

(b) Notwithstanding any provision to the contrary in Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of the Education Code, for each of the 1981–82, 1982–83, and 1983–84 fiscal years, the Superintendent of Public Instruction shall deduct from the apportionment made to the Riverdale Joint Union High School District the sum of thirty-three thousand three hundred thirty-three dollars and thirty-three cents ($33,333.33) together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account with reference to the fiscal year in which the repayment is to be withheld.

(c) The Riverdale Joint Unified School District shall remit to the Controller for deposit in the State School Fund proceeds from the sale of any surplus school district property. The amount of the deposit shall not exceed one hundred thousand dollars ($100,000) plus the interest on the amount which would be deducted in the fiscal year of the deposit pursuant to subdivision (b).

(d) If any deposit is made pursuant to subdivision (c), the Superintendent of Public Instruction shall subtract the amount of the deposit from the amount owed and recompute the deduction made from apportionments made pursuant to subdivision (b).

SEC. 8. The appropriation made by this act shall be deemed to be an appropriation made pursuant to Section 41310 of the Education

Code and the requirements of Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of the Education Code shall be met by the district. The district shall reimburse the county superintendent of schools for any additional costs incurred by the county superintendent in carrying out the requirements of Article 2.

SEC. 9. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that vitally needed educational services may be provided without interruption in the Riverdale Joint Union High School District and in order that the withholding of funds by the Superintendent of Public Instruction from the Pittsburg Unified School District can be prepared for and established on the three-year basis prescribed by this act at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 982

An act to amend Section 6700 of the Government Code, relating to state holidays.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 6700 of the Government Code is amended to read:

6700. The holidays in this state are:

(a) Every Sunday.
(b) January 1st.
(c) February 12th, known as "Lincoln Day."
(d) The third Monday in February.
(e) The last Monday in May.
(f) July 4th.
(g) First Monday in September.
(h) September 9th, known as "Admission Day."
(i) The second Monday in October, known as "Columbus Day."
(j) November 11th, known as "Veterans Day."
(k) December 25th.
(*l*) Good Friday from 12 noon until 3 p.m.

(m) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

Except for the Thursday in November appointed as Thanksgiving Day, this subdivision shall not apply to a city, county, or district unless nade applicable by charter, or by ordinance or resolution of the governing body thereof.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

The board of supervisors of any county may by ordinance or resolution alter the date of any holiday designated in (c), (d), (e), (g), (h), (i), or (j) applicable to the superior, municipal, and justice courts in such county. Provided, however, that any such altered holiday shall not be considered a holiday or a day on which a court is not in session for purposes of taking criminal defendants before a magistrate as provided in Section 825 of the Penal Code.

CHAPTER 983

An act to amend Sections 16502, and 16503 of, to amend the heading of Chapter 4 (commencing with Section 16500) of Division 7 of, to add Section 16500.5 to, and to repeal Chapter 5 (commencing with Section 16550) of Division 7 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. The heading of Chapter 4 (commencing with Section 16500) of Division 7 of the Vehicle Code is amended to read:

CHAPTER 4. COMMERCIAL VEHICLES

SEC. 2. Section 16500.5 is added to the Vehicle Code, to read:

16500.5. Every owner of a vehicle, except a vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less, used in the transportation of property other than agricultural commodities and byproducts, including livestock or related equipment or products used in the production, marketing, handling, or processing of agricultural commodities in the conduct of a business other than for-hire transportation subject to regulation by the Public

Utilities Commission, shall maintain ability to respond in damages in the amount required by the director. The director shall establish such amounts as are determined adequate to cover damages resulting from the ownership or operation of a commercial vehicle or vehicles arising by reason of personal injury to or death of any person, damage to property, or both. The director shall establish such amounts at levels equal to those prescribed by the Public Utilities Commission for owners and operators of for-hire vehicles subject to its jurisdiction and control. Ability to respond in damages may be maintained by either:

(a) Being insured under a motor vehicle liability policy against such liability.

(b) Obtaining a bond of the same kind, and containing the same provisions, as those bonds specified in Section 16434.

(c) By depositing with the department five hundred thousand dollars ($500,000), which amount shall be deposited in a special deposit account with the State Controller for the purpose of this section.

(d) Qualifying as a self-insurer under Section 16053.

The department shall return the deposit to the person entitled thereto when he is no longer required to maintain ability to respond in damages as required by this section or upon his death.

SEC. 3. Section 16502 of the Vehicle Code is amended to read:

16502. No owner shall use, or with his consent permit the use of, any vehicle used in the transportation of persons or property in the conduct of a business, without maintaining ability to respond in damages as required by this chapter.

SEC. 4. Section 16503 of the Vehicle Code is amended to read:

16503. The department shall suspend the registration of all vehicles used in the transportation of persons or property in the conduct of a business, except vehicles subject to regulation by the Public Utilities Commission, which are registered in the name of any person convicted of violating Section 16502 immediately upon receipt of a duly certified abstract of the record of the court in which the person was convicted.

The suspension shall remain in effect and no such vehicle shall be registered in the name of the person until he gives the department proof of his ability to respond in damages as required by Section 16500.

SEC. 5. Chapter 5 (commencing with Section 16550) of Division 7 of the Vehicle Code is repealed.

SEC. 6. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any

costs incurred because of this act.

CHAPTER 984

An act to amend Sections 13530 and 20880 of, and to add Sections 13470.1, 13545, 20820.1, and 20896 to, the Business and Professions Code, relating to petroleum products.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 13470.1 is added to the Business and Professions Code, to read:

13470.1. (a) No person shall sell at retail to the general public any motor vehicle fuel from any place of business in this state unless such person shall post and maintain in legible form the maximum lawful selling price of each type and grade of gasoline. The maximum lawful selling price shall be posted on each pump used to dispense gasoline at retail outlets in numbers not less than ½ inch high facing each direction from which the pumps are generally viewed by customers. The posting of the actual selling price is not considered to be the posting of the maximum lawful selling price as required by this paragraph. Whenever an adjustment is made to the maximum lawful selling price, each retail seller must post the new adjusted maximum lawful selling price, and remove the prior posted price.

(b) For the purposes of this section, "maximum lawful selling price" means the maximum lawful selling price as defined under the Emergency Petroleum Allocation Act, 15 USC 751 et seq., and any regulations promulgated pursuant thereto.

(c) Enforcement by the Division of Measurement Standards and each county sealer of weights and measures may consist of referring complaints and information regarding possible violations to the appropriate federal agency.

SEC. 1.1. Section 13530 of the Business and Professions Code, as added by Assembly Bill No. 2779 of the 1979–80 Regular Session, is amended to read:

13530. (a) Nothing in this article shall be construed to apply to the price signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the net tax-included price per gallon or liter for a particular brand or trade name of gasoline or motor vehicle fuel permitted under the provisions of Article 8 (commencing with Section 13470), unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter for the same brand or trade name of gasoline or other motor vehicle fuel permitted under the provisions of this article.

(b) Nothing in this article shall be construed to apply to the price signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the net tax-included price per gallon or liter and the minimum octane number for a particular brand or trade name of gasoline permitted under the provisions of Article 8 (commencing with Section 13470), unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter and the minimum octane number for the same brand or trade name of gasoline permitted under the provisions of this article.

For purposes of this subdivision "gasoline" does not include gasoline sold for aviation purposes.

As used in this subdivision "octane number" means the American Society for Testing and Materials octane number of the gasoline as defined by Section 13403.

(c) Every person offering for sale or selling any gasoline or other motor vehicle fuel to the public from any place of business in the State of California shall post or display on or near such premises, one sign, easily visible to motorists on the major street or highway immediately adjacent to such premises, which indicates or shows or advertises the actual current price per gallon or liter of the three major grades of gasoline or other motor vehicle fuel sold on such premises, including taxes, together with the grade designation of the gasoline or other motor vehicle fuel product advertised for sale by such advertising medium.

The numerals indicating the price on such sign shall be of uniform size and at least six inches in height. All letters or numerals used in designating the brand name or the words "no brand" on such sign shall not be less than one-third the size of the numerals designating the price and the height of such letters or numerals shall not be more than twice the dimension of the width. All letters or numerals used in designating the product, such as "gasoline" or other motor fuel, shall be not less than one-third the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. All letters or numerals on such sign designating the grade of the gasoline or motor fuel shall be not less than one-sixth the size of the numerals designating the price and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. If gasoline or other motor vehicle fuel is sold by the liter and advertised, the word "liter" shall be displayed on such sign in letters not less than one-third the size of the numerals designating the price and the height of such letters shall not be more than twice the dimension of the width.

(d) No person offering for sale or selling any gasoline or motor vehicle fuel from any place of business in the State of California shall post or display a sign or statement or other advertising medium

reading, in substance, "save" a designated amount, or a designated amount per gallon or liter, such as "save 5 cents" or "save 5 cents per gallon or liter," or using the expression "off" a designated amount, such as "5 cents off" or "5 cents less," or "discount" of a given amount, such as "5 cents discount," or otherwise using the words "save," "off," "discount," "less," "below," or any of them, or a word or words of similar meaning or other phraseology indicating a reduced price, unless there is posted and displayed in letters and numerals of at least equal size and as part of the same sign, statement, or other advertising medium, the total price, or prices per gallon or liter, including all taxes from which such reduction will be made, the reduction given, and the total net price per gallon, including all taxes, at which gasoline or other motor vehicle fuel is being sold or offered for sale. Words shall be used to explain the reduced price, the amount of reduction, and the price from which the reduction is made. Such words shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(e) In the event that the same brand or grade of gasoline or motor fuel is sold at different prices from the dispensing devices on the premises of any single place of business, it shall be unlawful for any person to post or display any sign or advertising medium which indicates or shows or advertises a price of such brand or grade unless such sign or advertising medium indicates, shows, or advertises in letters or numerals of equal size each of the higher prices, including all taxes, for which such brand or grade is sold, offered for sale, or advertised for sale and unless such sign or advertising medium explains the conditions under which such brand or grade is advertised for sale, at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

The provisions of this section relating to the posting of octane numbers shall not be operative unless and until the Federal Trade Commission or any federal governmental agency adopts regulations relating to posting of octane numbers, in which case the provisions of this section shall become operative at the time designated in such regulations.

SEC. 1.2. Section 13545 is added to the Business and Professions Code, to read:

13545. Nothing in this article shall be construed to prohibit the governing body of any city, county, or city and county from enacting ordinances, including, but not limited to, land use and zoning ordinances, which impose restrictions on the advertising medium referred to in this article, so long as any provisions of such ordinances dealing with matters specifically covered in this article are identical therewith.

SEC. 1.5. Section 20820.1 is added to the Business and Professions Code, to read:

20820.1. (a) No person shall sell at retail to the general public any motor vehicle fuel from any place of business in this state unless

such person shall post and maintain in legible form the maximum lawful selling price of each type and grade of gasoline. The maximum lawful selling price shall be posted on each pump used to dispense gasoline at retail outlets in numbers not less than ½ inch high facing each direction from which the pumps are generally viewed by customers. The posting of the actual selling price is not considered to be the posting of the maximum lawful selling price as required by this paragraph. Whenever an adjustment is made to the maximum lawful selling price, each retail seller must post the new adjusted maximum lawful selling price, and remove the prior posted price.

(b) For the purposes of this section, "maximum lawful selling price" means the maximum lawful selling price as defined under the Emergency Petroleum Allocation Act, 15 USC 751 et seq., and any regulations promulgated pursuant thereto.

(c) Enforcement by the Division of Measurement Standards and each county sealer of weights and measures may consist of referring complaints and information regarding possible violations to the appropriate federal agency.

SEC. 2. Section 20880 of the Business and Professions Code is amended to read:

20880. (a) Nothing in this article shall be construed to apply to the price signs referred to in Article 5 (commencing with Section 20820) of this chapter; provided, however, that any numerals designating the net tax-included price per gallon or liter for a particular brand or trade name of gasoline or motor vehicle fuel permitted under the provisions of Article 5 (commencing with Section 20820) of this chapter, unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter for the same brand or trade name of gasoline or other motor vehicle fuel permitted under the provisions of this article.

(b) Nothing in this article shall be construed to apply to the price signs referred to in Article 5 (commencing with Section 20820) of this chapter; provided, however, that any numerals designating the net tax-included price per gallon or liter and the minimum octane number for a particular brand or trade name of gasoline permitted under the provisions of Article 5 (commencing with Section 20820) of this chapter, unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter and the minimum octane number for the same brand or trade name of gasoline permitted under the provisions of this article.

For purposes of this subdivision "gasoline" does not include gasoline sold for aviation purposes.

As used in this subdivision "octane number" means the American Society for Testing and Materials octane number of the gasoline as defined by Section 20710.

(c) Every person offering for sale or selling any gasoline or other motor vehicle fuel to the public from any place of business in the

State of California shall post or display on or near such premises, one sign, easily visible to motorists on the major street or highway immediately adjacent to such premises, which indicates or shows or advertises the actual current price per gallon or liter of the three major grades of gasoline or other motor vehicle fuel sold on such premises, including taxes, together with the grade designation of the gasoline or other motor vehicle fuel product advertised for sale by such advertising medium.

The numerals indicating the price on such sign shall be of uniform size and at least six inches in height. All letters or numerals used in designating the brand name or the words "no brand" on such sign shall not be less than one-third the size of the numerals designating the price and the height of such letters or numerals shall not be more than twice the dimension of the width. All letters or numerals used in designating the product, such as "gasoline" or other motor fuel, shall be not less than one-third the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. All letters or numerals on such sign designating the grade of the gasoline or motor fuel shall be not less than one-sixth the size of the numerals designating the price and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. If gasoline or other motor vehicle fuel is sold by the liter and advertised, the word "liter" shall be displayed on such sign in letters not less than one-third the size of the numerals designating the price and the height of such letters shall not be more than twice the dimension of the width.

(d) No person offering for sale or selling any gasoline or motor vehicle fuel from any place of business in the State of California shall post or display a sign or statement or other advertising medium reading, in substance, "save" a designated amount, or a designated amount per gallon or liter, such as "save 5 cents" or "save 5 cents per gallon or liter", or using the expression "off" a designated amount, such as "5 cents off" or "5 cents less", or "discount" of a given amount , such as "5 cents discount", or otherwise using the words "save", "off", "discount", "less", "below", or any of them, or a word or words of similar meaning or other phraseology indicating a reduced price, unless there is posted and displayed in letters and numerals of at least equal size and as part of the same sign, statement or other advertising medium, the total price, or prices per gallon or liter, including all taxes from which such reduction will be made, the reduction given and the total net price per gallon, including all taxes, at which gasoline or other motor vehicle fuel is being sold or offered for sale. Words shall be used to explain the reduced price, the amount of reduction, and the price from which the reduction is made. Such words shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(e) In the event that the same brand or grade of gasoline or motor fuel is sold at different prices from the dispensing devices on the premises of any single place of business, it shall be unlawful for any person to post or display any sign or advertising medium which indicates or shows or advertises a price of such brand or grade unless such sign or advertising medium indicates, shows, or advertises in letters or numerals of equal size each of the higher prices, including all taxes, for which such brand or grade is sold, offered for sale, or advertised for sale and unless such sign or advertising medium explains the conditions under which such brand or grade is advertised for sale, at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

The provisions of this section relating to the posting of octane numbers shall not be operative unless and until the Federal Trade Commission or any federal governmental agency adopts regulations relating to posting of octane numbers, in which case the provisions of this section shall become operative at the time designated in such regulations.

SEC. 3. Section 20896 is added to the Business and Professions Code, to read:

20896. Nothing in this article shall be construed to prohibit the governing body of any city, county, or city and county from enacting ordinances, including, but not limited to, land use and zoning ordinances, which impose restrictions on the advertising medium referred to in this article, so long as any provisions of such ordinances dealing with matters specifically covered in this article are identical therewith.

SEC. 3.5. It is the intent of the Legislature that Sections 1, 1.1, and 1.2 of this act shall become operative only if this act and Assembly Bill No. 2779 are both chaptered and become effective on January 1, 1981, and this act is chaptered after Assembly Bill No. 2779, in which case Sections 1.5, 2, and 3 of this act shall not become operative.

SEC. 3.7. It is the intent of the Legislature that if this act and Assembly Bill No. 2067 are both chaptered and become effective on January 1, 1981, regardless of the order of chaptering, that Sections 1.1, 1.2, 2, and 3 of this act shall not become operative.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 985

An act to amend Section 52178 of, and to add Section 52178.5 to, the Education Code, relating to bilingual education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or (c) of Section 52163 shall be bilingual-crosscultural teachers as defined pursuant to subdivision (h) of Section 52163, or shall be bilingual in English and the primary language of the pupils of limited English proficiency in the bilingual class and hold an internship credential or an emergency bilingual-crosscultural credential.

In recognition of the shortage of qualified bilingual-crosscultural teachers, a school district may request a renewable two-year waiver from the board for each teacher who is not bilingual-crosscultural but who is enrolled and participating in a program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5. Such a teacher, with the assistance of a bilingual-crosscultural aide, may teach in a program of bilingual instruction mandated by Section 52165 for not more than four school years commencing with the first year that the teacher was under waiver, so long as continuing progress toward the certificate of competence is indicated in accordance with this section.

Each school district which requests waivers shall file its application for such a waiver with the State Board of Education on or before October 1 of the appropriate year, and shall give assurance that all teachers receiving such a waiver are, or will be, participating in an appropriate program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5 during each of the school years for which the waiver is granted, and shall state who is in charge of the program and which institution or district is conducting it. Existing state and federal staff development funds may be used for training and assessment leading to a bilingual-crosscultural certificate of competence. The district shall further assure that all teachers receiving such a waiver have been notified in writing by the school board as to their obligations while under waiver. The waiver application shall list the names of the teachers who are to receive the waiver, the school to which they are assigned, and the date by which the teacher is expected to obtain the certificate of competence

Each district, whether or not it requests a waiver, shall report the

number of classrooms for which a bilingual teacher is required pursuant to Section 52165, the total number of certificated bilingual-crosscultural teachers employed by the district in classroom positions, and, in the event the district requests a waiver, the total number of teachers for whom a waiver is being requested.

If a district hires new teachers, no waiver shall be granted unless the board finds that the district made a good faith effort to recruit and hire bilingual-crosscultural teachers. As a part of such good faith effort, districts shall contact those bilingual-crosscultural teachers who indicate they are seeking employment as stated in the annual list of bilingual-crosscultural teachers prepared by the Commission for Teacher Preparation and Licensing. Districts needing bilingual-crosscultural teachers shall also request assistance from the clearinghouse maintained by the commission pursuant to Section 10106.

All waivers granted pursuant to this section shall expire not later than the end of the fourth school year the teacher has been on waiver, or June 30, 1984, whichever shall occur first.

It is not the intent of the Legislature, by amending this section in the 1979–80 Regular Legislative Session, to expand the requirements for the Certificate of Bilingual-Crosscultural Competence.

Commencing September 1, 1981, all waiver applications shall include certification by an assessor agency approved by the Commission for Teacher Preparation and Licensing, that the applicant teacheris making the following progress toward meeting the requirements for the bilingual-crosscultural certificate of competence:

(a) For the teacher who is just entering the bilingual program: no requirement.

(b) For the teacher beginning his or her second year on waiver: competence in language, culture, or methodology, as required by subdivision (a), (b), or (c) of Section 44253.5.

(c) For the teacher beginning his or her third year on waiver: no additional requirements.

(d) For the teacher beginning his or her fourth year on waiver: competence in two of the three areas required by Section 44253.5. These certifications shall be provided to the Department of Education on an annual basis. In lieu of these certifications of competence in culture or methodology, as required by subdivision (b) or (c) of Section 44253.5, the district may submit a statement from a bilingual teacher training institution approved by the Commission for Teacher Preparation and Licensing that the course work for that competence has been completed. To receive a bilingual-crosscultural certificate of competence, an applicant shall pass the examinations for all three areas of competence required by Section 44253.5.

The Commission for Teacher Preparation and Licensing shall contract with approved assessor agencies to separately assess each of the three competencies required in Section 44253.5. The commission

shall arrange for assessments if approved assessor agencies cannot provide them. However, the commission may directly assess these competencies if the commission has been unable to arrange an assessment, and if a staff member is qualified to perform the assessment.

SEC. 2. Section 52178.5 is added to the Education Code, to read:

52178.5. An extension of a waiver granted pursuant to Section 52178 shall be provided until July 1, 1984, for a teacher teaching in those languages where there is no preparation or examination available for obtaining a certificate of competence for bilingual-crosscultural instruction, as determined by the Commission for Teacher Preparation and Licensing.

No waivers shall be granted pursuant to this section for teachers teaching in classrooms utilizing the Spanish or the Cantonese dialect of the Chinese language.

This section shall remain operative only until July 1, 1984, and as of such date is repealed, unless a later enacted statute which is chaptered before July 1, 1984, deletes or extends such date.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Over four thousand waivers have been requested during the current school year, and all of these teachers must be assessed if they wish to remain in bilingual-bicultural classrooms after September 1, 1980. In order to build an efficient assessment process, it is necessary that this act take effect immediately.

CHAPTER 986

An act to amend Sections 709, 709.5, 710, and 711 of, to add Section 709.7 to, to repeal Section 708 of, and to repeal and add Article 11 (commencing with Section 1101) of, the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980), relating to water resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 708 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is repealed.

SEC. 2. Section 709 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 709. If the evidence produced at the hearing specified in Section 707, or in any subsequent hearing, tends to show that reduction or suspension of extraction by exporters will be insufficient to eliminate existing or threatened conditions of overdraft, the district may limit or suspend extractions by district users. Any such limitation or suspension of extraction shall be done in the manner described in Section 709.5.

SEC. 3. Section 709.5 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 709.5. In the event that the district limits or suspends extractions by district users in order to eliminate existing or threatened conditions of overdraft, rights to the use of the available supply of groundwater shall be allocated primarily on the basis of the number of acres overlying the basin or subbasin that a user owns or leases in proportion to the total number of acres overlying the basin or subbasin. The district may adjust any figure so arrived at up or down for any of the following factors:

(1) The number of acres actually irrigated compared to the number of acres owned or leased.

(2) Crop type.

(3) Wasteful or inefficient use.

(4) Reasonable need.

(5) Any other factors that the district reasonably feels it should consider in order to reach an equitable distribution within the entire district.

SEC. 4. Section 709.7 is added to the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) to read:

Sec. 709.7. (a) The Legislature, in enacting this act, intends to establish and grant to overlying groundwater users and to district off-basin groundwater users a prior right to groundwater in the district and to thereby relegate exports from the district to a junior priority to such water users, irrespective of the time such export uses are commenced. By adopting district boundaries which contain the watershed of the groundwater basin within the district, the Legislature adopts the watershed and basin as the scope of the area granted prior right to groundwater.

(b) It is further the Legislature's intent to recognize that, in general, overlying users have a prior right to groundwater within the district, but to grant the district, particularly in Article 7 (commencing with Section 601) and Article 11 (commencing with Section 1101), the authority to consider other factors and the reasonable needs of district off-basin users in allocating the available groundwater supply and to permit the district to make groundwater

available to district off-basin users based on factors which indicate that such use is necessary for the equitable distribution of the groundwater resource.

SEC. 5. Section 710 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 710. If the district has imposed reductions on district users pursuant to Section 709, no operator may extract groundwater from a new, enlarged, or reactivated extraction facility for use within the district until the operator has applied for and received a permit from the district.

SEC. 6. Section 711 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 711. (a) The district shall grant the permit referred to in Section 710 upon determining the operator's share of the available supply from the groundwater basin or subbasin in the manner described in Section 709.5 and may limit the operator's right to extract groundwater to such share. To the extent necessary, the district shall adjust the authorized extractions by other district users.

(b) The district may postpone the effective date of any increase authorized in subdivision (a) to the start of the next water year. The district may also establish a date by which any application shall be submitted in order to be effective at the start of the next water year.

SEC. 7. Article 11 (commencing with Section 1101) of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is repealed.

SEC. 8. Article 11 (commencing with Section 1101) is added to the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) to read:

Article 11. Development Projects

Sec. 1101. After creation of the district, any person seeking approval from a local agency having land use jurisdiction of a development project proposed to be located wholly or in part within the boundaries of the district and which proposes to extract groundwater for service of water shall, at the time of filing an application with such local agency, file with the district documents describing the proposed sources of water, the amount of water required, the amounts of groundwater previously used on the property proposed to be developed, and such other information as the district may reasonably require.

Sec. 1102. The district shall be considered a "responsible agency," as defined in Section 65933 of the Government Code, and shall submit the finding described in Section 1103 within the time period established by Section 65952 of the Government Code. The application for the development project shall be deemed complete for purposes of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code when the information required by Section 1101 has been provided to the district and when the information required by Section 65943 of the Government Code has been provided to the local agency with land use jurisdiction.

Sec. 1103. (a) The district shall determine whether sufficient groundwater is available for the proposed use by a development project based on the projected use of groundwater by the project. The district shall find that sufficient groundwater is available for use by a development project upon demonstration to the district's satisfaction by the person seeking approval of the development project that the development project will not use more water than is found to be available pursuant to subdivision (b).

(b) In determining whether sufficient groundwater is available for a development project, whether located on overlying or district off-basin lands, the district shall take into account that groundwater is to be allocated primarily on the basis of the number of acres overlying the basin or subbasin that the development project occupies in proportion to the total number of acres overlying the basin or subbasin, but that such allocation may be adjusted up or down for any of the following factors:

(1) The total number of overlying acres actually irrigated or reasonably susceptible of irrigation compared to the total number of overlying acres in the basin.

(2) The number of overlying acres being irrigated from surface water sources.

(3) Crop types.

(4) Wasteful or inefficient use.

(5) Reasonable needs of water users within the district.

(6) Any possible reduction or suspension of exports which would allow in-district groundwater use to take place.

(7) Any other factors that the district reasonably feels it should consider in determining whether sufficient water will be available to the development project.

Sec. 1104. (a) Notwithstanding any other provision of law, no local agency having land use jurisdiction shall approve a proposed development project which proposes to use groundwater from the basin unless:

(1) The district has found that sufficient groundwater is available to the development project pursuant to Section 1103; or,

(2) The local agency having land use jurisdiction conditions their approval on the action by the district pursuant to Section 1103.

(b) If, pursuant to paragraph (2) of subdivision (a), a local agency having land use jurisdiction conditionally approves a proposed development project, and if the district subsequently finds that sufficient groundwater is not available for the development project, the development project shall be deemed to be denied by the local agency as a matter of law without the local agency taking further action.

Sec. 1105. Nothing in this article shall be interpreted as limiting the district's general powers to regulate groundwater extraction and use in development projects in the same manner as other extractions and use within the district.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to provide for the sound management of the groundwater resources of Sierra Valley which is suffering from special problems which immediately threaten the continued availability of groundwater in the basin, and to protect the agriculture and the economic well-being of the valley which is dependent on the groundwater resources, it is necessary that this act take effect immediately.

CHAPTER 987

An act to amend Sections 216, 218, 2805, and 2811 of the Public Utilities Code, relating to private energy producers.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 216 of the Public Utilities Code is amended to read:

216. (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman, and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof.

(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman, or heat corporation performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service or delivers any commodity to any person, private corporation, municipality or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, performs such service or delivers such commodity to or for the public or some portion thereof, such person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(d) In no event shall ownership or operation of a facility which employs cogeneration technology or produces power from other than a conventional power source be deemed to make a corporation or person a public utility, within the meaning of this section, solely because of the ownership or operation of such a facility.

SEC. 2. Section 218 of the Public Utilities Code is amended to read:

218. "Electrical corporation" includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

"Electrical corporation" shall not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical corporation or state or local public agency, but not for sale to others, unless such corporation or person is otherwise an electrical corporation.

SEC. 3. Section 2805 of the Public Utilities Code is amended to read:

2805. "Conventional power source" means power derived from nuclear energy or the operation of a hydropower facility greater than 30 megawatts or the combustion of fossil fuels, except when cogeneration technology, as defined in Section 25134 of the Public Resources Code, is employed in the production or generation of such power.

SEC. 2. Section 2811 of the Public Utilities Code is amended to read:

2811. In order to promote the more efficient use and distribution of natural gas or electric energy and eliminate the necessity for construction of transmission facilities for gas or electricity produced by a private energy producer separate from those which may already exist to serve the same area and are owned and operated by a public utility subject to the jurisdiction and control of the Public Utilities Commission, the commission shall authorize the construction of an interconnection by a private energy producer upon application of such producer if the commission makes the findings required by Sections 2812 and 2812.5. The commission shall render its decision on any application filed pursuant to this chapter within 180 days of receipt of the application or at such later time as may be mutually agreed upon by the commission, the applicant, and the interconnecting public utility.

CHAPTER 988

An act to amend Sections 1621.1, 1621.2, and 2193.77 of the Business and Professions Code, relating to health care providers, and making an appropriation therefor.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 1621.1 of the Business and Professions Code is amended to read:

1621.1. The examining committee shall consist of 100 members appointed by the board. The board shall appoint the examining committee members from lists submitted by the dental and dental hygienists associations, if such lists are submitted.

SEC. 2. Section 1621.2 of the Business and Professions Code is amended to read:

1621.2. Members of the examining committee shall possess all of the following qualifications:

(a) Seventy-five shall have a valid license to practice dentistry in this state and shall have engaged in the practice of dentistry in this state for at least five years next preceding his appointment.

(b) Twenty-five shall have a valid license to practice dental hygiene in this state and shall have practiced dental hygiene in this state for at least five years next preceding his appointment.

(c) Shall not be an officer or faculty member of any college, school or institution engaged in dental instruction.

SEC. 3. Section 2193.77 of the Business and Professions Code is amended to read:

2193.77. (a) It is the intention of the Legislature in enacting this section to provide financial assistance to University of California medical schools operating supervised clinical training programs authorized by Section 2193.71 and to provide financial assistance to students to cover the costs of supervised clinical training programs at medical schools in this state other than University of California medical schools. The Legislature further intends to assist in, through this section, the development and operation of up to 50 places in such supervised clinical training programs on a continuing basis. Funds to support such intent may be appropriated by the Legislature in the future as part of the state budget.

(b) The Student Aid Commission shall, from funds appropriated by the Legislature for such purpose, (1) allocate the sum of no more than ten thousand dollars ($10,000) for each United States citizen up to a total of 30 students, except as provided in subdivision (e), enrolled in an approved program of supervised clinical training established pursuant to Section 2193.75 to the University of California medical school operating such program and (2) allocate the sum of no more than ten thousand dollars ($10,000) to each United States citizen up to a total of 20 students, except as provided in subdivision (e), in addition to those in paragraph (1) of this subdivision, who are accepted for enrollment by a University of California or other medical school in an approved program of supervised clinical training established pursuant to Section 2193.75. Funds appropriated to students under this section shall only be expended by students to cover the operating costs of the program. The Student Aid

Commission shall insure that funds available to the University of California under subdivison (a) and this subdivision are allocated to only cover costs for students enrolled under this subdivision.

(c) The Student Aid Commission shall make grants to University of California medical schools and students enrolled in clinical training programs at medical schools in this state other than University of California medical schools pursuant to this section based upon information provided by medical schools detailing actual incremental costs of operating supervised clinical training programs. The amount paid per student shall be decreased by the amount of federal funds received for the support of the student and by the amount of other tuition and fees paid by the students participating in the program. The commission may require such information from medical schools and students as is reasonably necessary to carry out the provisions of this section. The commission shall prescribe a standard application form for grants made pursuant to this section, and shall make such application form available to medical schools and students no later than 30 days after this section takes effect.

(d) The Student Aid Commission shall maintain statistical records on the expenditures of funds by medical schools for operating supervised clinical training programs, and the numbers of students enrolled in such programs. The commission shall report to the Legislature no later than each January 1, concerning: the numbers of students who have completed or are enrolled in supervised clinical training programs; the medical schools such students attended; the attrition rate of students enrolled in various programs; and recommendations for changes in funding such programs.

(e) At any period of time, University of California medical schools may be allocated available student grants not utilized by medical schools other than University of California medical schools and medical schools other than University of California medical schools may be allocated available student grants not utilized by University of California medical schools. In no event shall student positions exceed 50.

SEC. 4. The sum of twenty-eight thousand five hundred dollars ($28,500) is hereby appropriated from the State Dentistry Fund to the Board of Dental Examiners of California to cover administrative and per diem expenses necessitated as a result of the increase in examining committee membership mandated by this act.

CHAPTER 989

An act to add Section 4010.10 to the Health and Safety Code, relating to water systems.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Section 4010.10 is added to the Health and Safety Code, to read:

4010.10. The owners or operators of any public water system subject to the provisions of Section 4010.9, with not less than five connections, which is owned by all or a number of users who are not organized into a single legal entity, shall designate one of such users or other persons to be the principle contact or intermediary with the county health officer, or in those counties which do not have a local health officer carrying out the provisions of this chapter pursuant to Section 4010.9, with the department. The person designated pursuant to this section shall coordinate those actions necessary to achieve compliance with the provisions of this chapter and the orders, rules, and regulations adopted pursuant thereto.

CHAPTER 990

An act to add Division 25 (commencing with Section 38000) to the Health and Safety Code, relating to health and welfare, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Division 25 (commencing with Section 38000) is added to the Health and Safety Code, to read:

DIVISION 25. HEALTH AND WELFARE AGENCY—DIRECT SERVICE CONTRACTS REFORM ACT

CHAPTER 1. LEGISLATIVE INTENT AND POLICY

38000. The Legislature states its intent with respect to direct service contracts of the departments within the Health and Welfare Agency as follows:

(a) Contract approval process should take no longer than 30 days from the time the administrative agency generating the contract has approved its provisions.

(b) Payment for services rendered shall take no longer than 30 days after an invoice has been approved by the responsible department.

(c) If contract approval or payment or both are delayed, the state shall notify community based agencies within 15 days with instructions to either defer or interrupt services to be contracted. If the state requests an agency to continue providing services, conditions shall be mutually agreed upon in advance for amortization of particular additional costs to the agency involved.

CHAPTER 2. CONTRACT AUTHORITY

38010. Notwithstanding any other statutes to the contrary, this division shall prevail.

38011. Administrative departments are responsible for:

Program planning, issuing requests for proposal, reviewing and choosing contractors, negotiating service agreements with contractors, oversight of contract review and payment processes, preparing claims for payment, monitoring services, and evaluating contractors.

38012. The Department of General Services shall approve as to form and soundness of the contract pursuant to Section 14780 of the Government Code.

38013. The Department of Finance shall approve as to fiscal soundness statutory or regulatory authority, and adequate management and fiscal controls.

38014. The Controller shall approve payments based on the provisions of approved contracts.

CHAPTER 3. CONTRACT APPROVAL PROCESS

38020. (a) All departments under the Health and Welfare Agency may write and execute direct service contracts prior to July 1 of any fiscal year for the mutual benefit of both parties in order to avoid program and fiscal delay which could occur if the contracts were executed after July 1.

Such contracts are valid and enforceable only if sufficient funds are made available by the Budget Act of the appropriate contract year. In addition, contracts may be subject to such additional restrictions, limitations, or conditions as enacted by the Legislature and contained in the Budget Bill or any statute enacted by the Legislature.

If the Budget Act does not appropriate sufficient funds for the program, such contracts shall be invalid and of no further force and effect. In this event, the state shall have no liability to pay any funds whatsoever to the contractor, or to furnish any other considerations under this contract and the contractor shall not be obligated to perform any provisions of this contract.

(b) As used in this act "direct service contract" means a contract for services contained in local assistance or subvention programs, or both.

38021. If the renewal of a direct service contract is not approved in a timely manner through no fault of the contractor, the administrative department may request a simple 90-day extension of the existing approved contract pending final approval of the contract renewal and provide notification and the information and forms necessary for the agency contractor to bill for up to 90 days pursuant to this section.

38022. (a) The Department of Finance shall prepare and make

available no later than March 1, 1981, standard information on contracting for direct services with the State of California, outlining policies, procedures, and estimated time involved with such contract approvals.

(b) The Department of Finance may delegate contract approval authority to any administrative department under the Health and Welfare Agency for any direct service contracts requiring an appropriation of up to seventeen thousand five hundred dollars ($17,500).

CHAPTER 4. CONTRACT REFORM PROCESS

38040. The Auditor General shall review and report to the Legislature a contract reform process for human services contracts no later than January 1, 1982.

At a minimum, the following factors shall be considered: word processing requirements to expedite the contract production process, standardized contract forms, expediting payments, and the need for advance payments.

SEC. 2. Notwithstanding the provisos to Item 312.2 of the Budget Act of 1980 (Chapter 510, Statutes of 1980), stipends may be approved for the training of new masters level students in schools of social work when the university training contracts meet the conditions specified in the fourth proviso to Item 312.2.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to establish a cohesive process for direct services contracts, and to clarify provisions regarding stipends for the training of masters level students, it is necessary that this act take effect immediately.

CHAPTER 991

An act to amend Section 727 of, and to add Section 730.5 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Section 727 of the Welfare and Institutions Code is amended to read:

727. (1) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care,

supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court.

The court may order the care, custody, control and conduct of such minor to be under the supervision of the probation officer or may commit such minor to the care, custody and control of:

(a) Some reputable person of good moral character who consents to such commitment.

(b) Some association, society, or corporation embracing within its objects the purpose of caring for such minors, with the consent of such association, society, or corporation.

(c) The probation officer, to be boarded out or placed in some suitable family home or suitable private institution, subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code; provided, however, that pending action by the State Department of Social Services, the placement of a minor in a home certified as meeting minimum standards for boardinghomes by the probation officer shall be legal for all purposes.

(d) Any other public agency organized to provide care for needy or neglected children.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling program to be provided by an appropriate agency designated by the court.

(2) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivision (1).

SEC. 2. Section 730.5 is added to the Welfare and Institutions Code, to read:

730.5. When a minor is adjudged a ward of the court on the ground that he or she is a person described in Section 602, in addition to any of the orders authorized by Section 726, 727, 730, or 731, the court may levy a fine against the minor not to exceed two hundred fifty dollars ($250), if the court finds that the minor has the financial ability to pay the fine.

CHAPTER 992

An act to amend Sections 11139.5, 11340.2, 11501, 11554, 19702.5, 19704, and 50085.5 of, and to add Part 2.8 (commencing with Section 12900) to Division 3 of Title 2 of, the Government Code, to repeal Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code, to amend Sections 56, 1735, and 3096 of, and to repeal Part 4.5 (commencing with Section 1410) of Division 2 of, the Labor Code, relating to the reorganization of the executive branch of the California state government.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Section 11139.5 of the Government Code is amended to read:

11139.5. The Secretary of the Health and Welfare Agency, with the advice and concurrence of the Fair Employment and Housing Commission, shall establish standards for determining which persons are protected by this article and guidelines for determining what practices are discriminatory. The secretary, with the cooperation of the Fair Employment and Housing Commission, shall assist state agencies in coordinating their programs and activities and shall consult with such agencies, as necessary, so that consistent policies, practices, and procedures are adopted with respect to the enforcement of the provisions of the article.

SEC. 1.5. Section 11340.2 of the Government Code is amended to read:

11340.2. (a) The Office of Administrative Law is hereby established in state government. The office shall be under the direction and control of an executive officer who shall be known as the director. There shall also be a deputy director. The director's term and the deputy director's term of office shall be coterminous with that of the appointing power, except that they shall be subject to reappointment.

(b) The director and deputy director shall have the same qualifications as a hearing officer and shall be appointed by the Governor subject to the confirmation of the Senate.

SEC. 2. Section 11501 of the Government Code is amended to read:

11501. (a) This chapter applies to any agency as determined by the statutes relating to that agency.

(b) The enumerated agencies referred to in Section 11500 are:

Accountancy, State Board of

Aging, State Department of

Air Resources Board, State

Alcohol and Drug Abuse, State Department of

Alcoholic Beverage Control, Department of
Architectural Examiners, California State Board of
Attorney General
Automotive Repair, Bureau of
Barber Examiners, State Board of
Behavioral Science Examiners, Board of
Cancer Advisory Council
Cemetery Board
Chiropractic Examiners, Board of
Collection and Investigative Services, Bureau of
Community Colleges, Board of Governors of the California
Conservation, Department of
Consumer Affairs, Director of
Contractors, Registrar of
Corporations, Commissioner of
Cosmetology, State Board of
Dental Examiners of California, Board of
Developmental Services, State Department of
Education, State Board of
Employment Agencies, Bureau of
Engineers, State Board of Registration for Professional
Fabric Care, State Board of
Fair Employment and Housing Commission
Fair Political Practices Commission
Fire Marshal, State
Fire Services, State Board of
Fish and Game Commission
Food and Agriculture, Director of
Forestry, Department of
Funeral Directors and Embalmers, State Board of
Geologists and Geophysicists, State Board of Registration for
Guide Dogs for the Blind, State Board of
Health Services, State Department of
Home Furnishings, Bureau of
Horse Racing Board, California
Insurance Commissioner
Labor Commissioner
Landscape Architects, State Board of
Medical Quality Assurance, Board of, Medical Quality Review Committees and Examining Committees
Mental Health, State Department of
Motor Vehicles, Department of
Navigation and Ocean Development, Department of
Nursing, Board of Registered
Nursing Home Administrators, Board of Examiners of
Optometry, State Board of
Osteopathic Examiners of the State of California, Board of
Pharmacy, California State Board of
Public Employees' Retirement System, Board of Administration of

the

Real Estate, Department of

Electronic and Appliance Repair, Bureau of

Resources Agency, Secretary of the

San Francisco, San Pablo and Suisun, Board of Pilot Commissioners for the Bays of

Savings and Loan Commissioner

School Districts

Shorthand Reporters Board, Certified

Social Services, State Department of

Statewide Health Planning and Development, Office of

Structural Pest Control Board

Tax Preparer Program, Administrator

Teacher Preparation and Licensing, Commission for

Teachers' Retirement System, State

Transportation, Department of, acting pursuant to the State Aeronautics Act

Veterinary Medicine, Board of Examiners in

Vocational Nurse and Psychiatric Technician Examiners of the State of California, Board of

Water Resources, Department of

SEC. 3. Section 11554 of the Government Code, is amended to read:

11554. An annual salary of twenty-seven thousand five hundred dollars ($27,500) shall be paid to each of the following:

(a) Director of Conservation

(b) Director of Fish and Game

(c) Executive Officer, Franchise Tax Board

(d) Director of Parks and Recreation

(e) Director of Rehabilitation

(f) Director of Veterans Affairs

(g) Director of Consumer Affairs

(h) Members of the Unemployment Insurance Appeals Board

(i) State Architect

(j) Director of Forestry

(k) Director of Fair Employment and Housing.

SEC. 4. Part 2.8 (commencing with Section 12900) is added to Division 3 of Title 2 of the Government Code, to read:

PART 2.8. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

CHAPTER 1. GENERAL PROVISIONS

12900. This part may be known and referred to as the "California Fair Employment and Housing Act."

12901. There is in the state government, in the State and Consumer Services Agency, the Department of Fair Employment and Housing. The department is under the direction of an executive

officer known as the Director of Fair Employment and Housing, who is appointed by the Governor, subject to confirmation by the Senate, and who holds office at the pleasure of the Governor. The annual salary of the director is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

12902. The provisions of Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 apply to the director and the director is the head of a department within the meaning of such chapter.

12903. There is in the Department of Fair Employment and Housing the Fair Employment and Housing Commission. Such commission shall consist of seven members, to be known as commissioners, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated as chairman by the Governor. The term of office of each member of the commission shall be for four years. The members of the Fair Employment Practice Commission on the effective date of this section shall become the members of the Fair Employment and Housing Commission and shall serve the balance of the term they would have served on the Fair Employment Practice Commission.

12904. Any member chosen to fill a vacancy on the commission occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he or she is to succeed. Three members of the commission shall constitute a quorum for the purpose of conducting the business thereof.

12905. Each member of the commission shall serve without compensation but shall receive fifty dollars ($50) for each day actually spent in the performance of his or her duties under this part and shall also be entitled to his or her expenses actually and necessarily incurred in the performance of his or her duties.

12906. Any member of the commission may be removed by the Governor for inefficiency, for neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.

CHAPTER 2. SUCCESSION TO FUNCTIONS AND RESPONSIBILITIES

12910. (a) The Department of Fair Employment and Housing and the Fair Employment and Housing Commission succeed to, and are vested with, all of the powers, duties, purposes, responsibilities, and jurisdiction of the Division of Fair Employment Practices and the State Fair Employment Practices Commission, respectively, in the Department of Industrial Relations, which are hereby abolished.

(b) All powers, duties, and responsibilities of the Chief of the Division of Fair Employment Practices are hereby transferred to the Director of Fair Employment and Housing.

(c) Any regulation or other action made, prescribed, issued, granted, or performed by the abolished Division of Fair Employment Practices or the State Fair Employment Practice

Commission in the administration of a function transferred pursuant to subdivision (a) shall remain in effect and shall be deemed to be a regulation or action of the Department of Fair Employment and Housing or the Fair Employment and Housing Commission, respectively.

12911. All persons serving in the state civil service, other than temporary employees, in the State Fair Employment Practice Commission and the Division of Fair Employment Practices in the Department of Industrial Relations, and engaged in the performance of a function transferred to the Fair Employment and Housing Commission and the Department of Fair Employment and Housing shall, in accordance with Sections 12080.3 and 19370 of the Government Code, remain in the state civil service and are hereby transferred to the Fair Employment and Housing Commission and the Department of Fair Employment and Housing, respectively. The status, positions, and rights of such persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act, except as to positions the duties of which are vested in a position exempt from civil service.

The personnel records of all transferred employees shall be transferred to the new Department of Fair Employment and Housing.

12912. The Department of Fair Employment and Housing and the Fair Employment and Housing Commission shall have possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, land, licenses, permits, agreements, contracts, claims, judgments, and other property, real or personal, held for the benefit or use of any state agency the functions of which are vested in the Department of Fair Employment and Housing or the Fair Employment and Housing Commission.

12913. All unexpended balances of appropriations and other funds available to the State Fair Employment Practice Commission shall be transferred to the Fair Employment and Housing Commission. All unexpended balances of appropriations and other funds available to the Division of Fair Employment Practices in the Department of Industrial Relations shall be transferred to the Department of Fair Employment and Housing in the State and Consumer Services Agency. All funds so transferred shall be for the use or the purpose for which the appropriations or other funds were originally available.

CHAPTER 3. FINDINGS AND DECLARATIONS OF POLICY

12920. It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for such reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advance, and substantially and adversely affects the interest of employees, employers, and the public in general.

Further, the practice of discrimination because of race, color, religion, sex, marital status, national origin, or ancestry in housing accommodations is declared to be against public policy.

It is the purpose of this part to provide effective remedies which will eliminate such discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

12921. The opportunity to seek, obtain and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age is hereby recognized as and declared to be a civil right.

CHAPTER 4. DEFINITIONS

12925. As used in this part, unless a different meaning clearly appears from the context:

(a) "Commission" means the Fair Employment and Housing Commission and "commissioner" means a member of the commission.

(b) "Department" means the Department of Fair Employment and Housing.

(c) "Director" means the Director of Fair Employment and Housing.

(d) "Person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(b) "Employee" does not include any individual employed by his parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(c) "Employer," except as hereinafter provided, includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly; the state or any political or civil subdivision thereof and cities.

"Employer" does not include a religious association or corporation not organized for private profit.

(d) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(e) "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(f) "Medical condition" means any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

(g) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.

(h) "Physical handicap" includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) "Affirmative actions" means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, or ancestry.

(b) "Conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) "Discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when such housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with such housing accommodations; includes the cancellation or termination of a sale or rental agreement; and includes the provision of segregated or separated housing accommodations. The term "discrimination" does not include refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household.

(d) "Housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary

purpose or purposes for which the association or corporation was formed.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

CHAPTER 5. POWERS AND DUTIES

Article 1. The Department

12930. The department shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and such other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate, and conciliate complaints alleging discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(2) To receive, investigate, and conciliate complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) To subpoena witnesses, compel their attendance, administer oaths, examine any person under oath or by sworn interrogatory, and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the department.

(h) To issue accusations pursuant to Section 12965 or 12981 and to prosecute such accusations before the commission.

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(j) To investigate, approve, certify, decertify, monitor, and

enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

12931. The department may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age which impair the rights of persons in such communities under the Constitution or laws of the United States or of this state. The services of the department may be made available in cases of such disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The department's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

The assistance of the department pursuant to this section shall be limited to endeavors at investigation, conference, conciliation, and persuasion.

12932. (a) The Legislature recognizes that the avoidance of discriminatory practices in the employment of disabled persons is most effectively achieved through the ongoing efforts of state agencies involved in the vocational rehabilitation and job placement of the disabled. The department may utilize the efforts and experience of the Department of Rehabilitation in the development of job opportunities for the disabled by requesting the Department of Rehabilitation to foster good will and to conciliate on employment policies with employers who, in the judgment of the department, have employment practices or policies that discriminate against disabled persons. Nothing contained in this paragraph shall be construed to transfer any of the functions, powers, or duties from the department to the Department of Rehabilitation.

(b) The activities of the department in providing conciliation assistance shall be conducted in confidence and without publicity, and the department shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No employee of the department shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the department. Any employee of the department, who makes public in any manner whatever any information in violation of this subdivision, is guilty of a misdemeanor and, if a member of the state civil service, shall be subject to disciplinary action under the State Civil Service Act. When contacted by the department, employers, labor organizations, or employment agencies shall be informed whether a particular discussion, or portion thereof, constitutes either: (1) endeavors at

conference, conciliation and persuasion which may not be disclosed by the department or received in evidence in any formal hearing or court action; or (2) investigative processes, which are not so protected.

12933. The department shall maintain liaison with the human relations commissions of cities, counties, and any city and county, and shall provide any information not designated by law as confidential to such commissions on request.

Article 2. The Commission

12935. The commission shall have the following functions, powers and duties:

(a) To adopt, promulgate, amend, and rescind suitable rules, regulations, and standards (1) to interpret, implement, and apply Sections 12920, 12940, 12941, 12943, 12990, 12993, and 12994, as well as any other section of this part pertaining to unlawful employment practices, affirmative action, and public work contracts, (2) to interpret, implement, and apply Section 12955 pertaining to discrimination in housing and Section 12927 pertaining to affirmative action in housing, (3) to regulate the conduct of hearings held pursuant to Sections 12967 and 12980, and (4) to carry out all other functions and duties of the commission pursuant to this part.

(b) To conduct hearings pursuant to Sections 12967 and 12981.

(c) To establish and maintain a principal office within the state.

(d) To meet and function at any place within the state.

(e) To appoint an executive secretary, and such attorneys and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(g) To create or provide financial or technical assistance to such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and to empower them to study the problems of discrimination in all or specific fields of human relationships or in particular instances of employment discrimination on the bases enumerated in this part or in specific instances of housing discrimination because of race, religious creed, color, national origin, ancestry, marital status, or sex, and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) With respect to findings and orders made pursuant to Section

12967, to establish a system of published opinions which shall serve as precedent in interpreting and applying Sections 12940, 12941, and 12990, as well as of any other section of this part relating to employment discrimination on which the commission is authorized to issue findings or orders.

(i) To issue publications and results of inquiries and research which in its judgment will tend to promote good will and minimize or eliminate unlawful discrimination. Such publications shall include an annual report to the Governor and the Legislature of its activities and recommendations.

CHAPTER 6. DISCRIMINATION PROHIBITED

Article 1. Unlawful Practices, Generally

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or

morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified or assisted in any proceeding under this part.

(f) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(g) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

12941. (a) It is an unlawful employment practice for an employer to refuse to hire or employ, or to discharge, dismiss, reduce, suspend, or demote, any individual over the age of 40 on the ground of age, except in cases where the law compels or provides for such action. This section shall not be construed to make unlawful the rejection or termination of employment where the individual applicant or employee failed to meet bona fide requirements for the job or position sought or held, or to require any changes in any bona fide retirement or pension programs or existing collective-bargaining agreements during the life of the contract, or until January 1, 1980, whichever occurs first, nor shall this section preclude such physical and medical examinations of applicants and employees as an employer may make or have made to determine fitness for the job or position sought or held.

Promotions within the existing staff, hiring or promotion on the basis of experience and training, rehiring on the basis of seniority and prior service with the employer, or hiring under an established recruiting program from high schools, colleges, universities, and trade schools shall not, in and of themselves, constitute a violation of this section.

(b) This section shall not limit the right of an employer, employment agency, or labor union to select or refer the better qualified person from among all applicants for a job. The burden of proving a violation of this section shall be upon the person or persons claiming that the violation occurred.

(c) The age limitations of the apprenticeship programs in which the state participates shall not be deemed to violate this section.

12942. Every employer in this state, except a public agency, shall permit any employee who indicates in writing a desire in a reasonable time and can demonstrate the ability to do so, to continue his employment beyond the normal retirement date contained in any private pension or retirement plan.

Such employment shall continue so long as the employee demonstrates his ability to perform the functions of the job adequately and the employer is satisfied with the quality of work performed.

This section shall not be construed to require any change in funding, benefit levels, or formulas of any existing retirement plan, or to require any employer to increase such employer's payments for the provision of insurance benefits contained in any existing employee benefit or insurance plan, by reason of such employee's continuation of employment beyond the normal retirement date, or to require any changes in any bona fide retirement or pension programs or existing collective-bargaining agreements during the life of the contract, or until January 1, 1980, whichever occurs first.

Any employee indicating such desire and continuing such employment shall give the employer written notice in reasonable time, of intent to retire or terminate when such retirement or termination occurs after the employee's normal retirement date.

Nothing in this section or Section 12941 shall be construed to prohibit compulsory retirement of the following:

(a) Prior to July 1, 1982, of any employee who has attained 65 years of age and is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure at an institution of higher education as defined by Section 1201(a) of the Federal Higher Education Act of 1965.

On and after July 1, 1982, this subdivision shall only apply to an employee who has attained 70 years of age.

(b) Of any employee who has attained 65 years of age and who for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profitsharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least twenty-seven thousand dollars ($27,000).

12943. It shall be an unlawful employment practice unless based upon a bona fide occupational qualification:

(a) For the governing board of any school district, because of the pregnancy of any female person, to refuse to hire or employ her, or to refuse to select her for a training program leading to employment, or to bar or to discharge her from employment or from a training program leading to employment, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.

(b) For the governing board of any school district to terminate any employee who is temporarily disabled, pursuant to or on the basis of an employment policy under which insufficient or no leave is available, if the policy has a disparate impact on employees of one sex and is not justified by necessity of the public schools.

12944. (a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing which has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, age, medical condition, or physical handicap, unless such practice can be demonstrated to be job related.

Where the commission, after hearing, determines that an examination is unlawful under this subdivision, the licensing board may continue to use and rely on such examination until such time as judicial review by the superior court of the determination is exhausted.

If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege, status, or responsibility previously conferred upon any person by such examination or by a license issued in reliance on such examination or qualification.

(b) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity

guidelines or regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, sex, or age, or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for.

(c) It is unlawful for a licensing board to discriminate against any person because such person has filed a complaint, testified, or assisted in any proceeding under this part.

(d) It is unlawful for any licensing board to fail to keep records of applications for licensing or certification for a period of two years following the date of receipt of such applications.

(e) As used in this section, "licensing board" means any state board, agency, or authority in the State and Consumer Services Agency which has the authority to grant licenses or certificates which are prerequisites to employment eligibility or professional status.

12945. It shall be an unlawful employment practice unless based upon a bona fide occupational qualification:

(a) For any employer, because of the pregnancy, childbirth, or related medical condition of any female employee, to refuse to promote her, or to refuse to select her for a training program leading to promotion, provided she is able to complete the training program at least three months prior to the anticipated date of departure for her pregnancy leave, or to discharge her from employment or from a training program leading to promotion, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.

(b) For any employer to refuse to allow a female employee affected by pregnancy, childbirth, or related medical conditions either:

(1) To receive the same benefits or privileges of employment granted by that employer to other persons not so affected who are similar in their ability or inability to work, including to take disability or sick leave or any other accrued leave which is made available by the employer to temporarily disabled employees. For purposes of this section, pregnancy, childbirth, and related medical conditions are treated as any other temporary disability. However, no employer shall be required to provide a female employee disability leave on account of normal pregnancy, childbirth, or related medical condition for a period exceeding six weeks. Nothing in this section shall be construed to require an employer to provide his or her

employees with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions. The inclusion in any such health insurance coverage of any provisions or coverage relating to medical costs of pregnancy, childbirth, or related medical conditions shall not be construed to require the inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth, or other related medical conditions.

(2) To take a leave on account of pregnancy for a reasonable period of time; provided, such period shall not exceed four months. Such employee shall be entitled to utilize any accrued vacation leave during this period of time. Reasonable period of time means that period during which the female employee is disabled on account of pregnancy, childbirth, or related medical conditions. Nothing herein shall be construed to limit the provisions of paragraph (1) of subdivision (b).

An employer may require any employee who plans to take a leave pursuant to this subdivision to give the employer reasonable notice of the date such leave shall commence and the estimated duration of such leave.

(c) (1) For an employer who has a policy, practice, or collective-bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability to refuse to transfer a pregnant female employee who so requests.

(2) For any employer to refuse to temporarily transfer a pregnant female employee to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where such transfer can be reasonably accommodated, provided, however, that no employer shall be required by this section to create additional employment which the employer would not otherwise have created, nor shall such employer be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

(d) This section shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy.

(e) The provisions of this section, except paragraph (2) of subdivision (b), shall be inapplicable to any employer subject to Title VII of the federal Civil Rights Act of 1964.

12946. It shall be an unlawful practice for employers, labor organizations, and employment agencies subject to the provisions of this part to fail to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after such records and files are initially created or received, or for employers to fail to retain personnel files of applicants or terminated employees for a minimum period of two years after the date of the employment action taken. For the purposes of this section, the State Personnel Board is exempt from the two-year retention requirement and shall instead, maintain

such records and files for a period of one year. Upon notice that a verified complaint against it has been filed under this part, any such employer, labor organization, or employment agency shall maintain and preserve any and all such records and files until such complaint is fully and finally disposed of and all appeals or related proceedings terminated. The commission shall adopt suitable rules, regulations, and standards to carry out the purposes of this section. Where necessary, the division, pursuant to its powers under Section 12974, may seek temporary or preliminary judicial relief to enforce this section.

12947. It shall not be an unlawful practice under this part for an employer or labor organization to provide or make financial provision for child care services of a custodial or other nature for its employees or members who are responsible for minor children.

12948. It shall be an unlawful practice under this part for a person to deny or to aid, incite, or conspire in the denial of the rights created by Section 51 or 51.7 of the Civil Code.

Article 2. Housing Discrimination

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of such person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, or ancestry of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, or ancestry or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, sex, marital status, national origin, or ancestry with reference thereto.

(e) For any person, bank, mortgage company or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, or ancestry of such person or persons, or of prospective occupants or tenants, in the terms, conditions, or privileges relating to the obtaining or use of any such financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, or has testified or assisted in any proceeding under this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

CHAPTER 7. ENFORCEMENT AND HEARING PROCEDURES

Article 1. Unlawful Practices

12960. The provisions of this article govern the procedure for the prevention and elimination of practices made unlawful pursuant to Article 1 (commencing with Section 12940) of Chapter 6.

Any person claiming to be aggrieved by an alleged unlawful practice may file with the department a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the department. The director or his or her authorized representative may in like manner, on his or her own motion, make, sign and file such complaint. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this part may file with the department a verified complaint asking for assistance by conciliation or other remedial action.

No complaint may be filed after the expiration of one year from the date upon which the alleged unlawful practice or refusal to cooperate occurred; except that this period may be extended for not to exceed 90 days following the expiration of that year, if a person allegedly aggrieved by an unlawful practice first obtained knowledge of the facts of the alleged unlawful practice after the expiration of one year from the date of their occurrence.

Complaints alleging a violation of subdivision (c) of Section 12940 shall be filed as provided in Section 3096 of the Labor Code.

12961. Where an unlawful practice alleged in a verified complaint adversely affects, in a similar manner, a group or class of persons of which the aggrieved person filing the complaint is a member, or where such an unlawful practice raises questions of law or fact which are common to such a group or class, the aggrieved person or the director may file the complaint on behalf and as representative of such a group or class. Any complaint so filed may be investigated as a group or class complaint, and, if in the judgment

of the director circumstances warrant, shall be treated as such for purposes of conciliation and accusation. Where an accusation is issued as a group or class accusation, the case shall be treated as a group or class case for all other purposes of this part, including, but not limited to, hearing, determination, reconsideration, and judicial proceedings.

12962. The department shall cause any verified complaint filed under the provisions of this part to be served, either personally or by certified mail with return receipt requested, upon the person, employer, labor organization, or employment agency alleged to have committed the unlawful practice complained of. Service shall be made at the time of initial contact with such person, employer, labor organization, or employment agency or the agents thereof, or within 45 days, whichever first occurs. At the discretion of the director, the complaint may not contain the name of the complaining party unless such complaint is filed by the director or his authorized representative.

12963. After the filing of any complaint alleging facts sufficient to constitute a violation of any of the provisions of Section 12940 or 12941, the department shall make prompt investigation in connection therewith. If the department determines after investigation that the complaint is valid; the department shall immediately endeavor to eliminate the unlawful employment practice complained of by conference, conciliation and persuasion. The staff of the department shall not disclose what has transpired in the course of any endeavors to eliminate the unlawful employment practice through conference, conciliation, and persuasion.

Any member of the staff of the department who discloses information in violation of the requirements of this section is guilty of a misdemeanor. Such disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

12964. Any agreement entered into by conference, conciliation and persuasion shall be reduced to writing, signed by all parties, and approved by the director or the authorized representative of the director. Within one year of the effective date of every such agreement, the department shall conduct a compliance review to determine whether such agreement has been fully obeyed and implemented. Whenever the department believes, on the basis of evidence presented to it, that any person is violating or about to violate any such agreement, the department may bring an action in the appropriate superior court of the State of California in the same manner as actions may be brought under Section 12973. In resolving allegedly unlawful practices through conciliation such resolutions may be in the nature of, but are not limited to, types of remedies that might be ordered after accusation and hearing.

12965. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the director in his or her

discretion may cause to be issued in the name of the department a written accusation. The accusation shall contain the name of the person, employer, labor organization or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing. An accusation shall be issued, if at all, within one year after the filing of a complaint.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify, in writing, the person claiming to be aggrieved. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization or employment agency named in the verified complaint within one year from the date of such notice. The superior courts of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to such practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. Such actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where such persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants. In actions brought under this section, the court, in its discretion may award to the prevailing party reasonable attorney fees and costs except where such action is filed by a public agency or a public official, acting in an official capacity.

12966. Where the department issues an accusation, or is about to do so, and the respondent accused of engaging in unlawful practices under this part is a state contractor or is a supplier of goods and services to the state, the director shall send a written notice of the issuance of the accusation and a copy of the accusation to the appropriate awarding agency and request a report of any action which the awarding agency takes in response to the department's notification and issuance of accusation.

12967. The commission shall hold hearings on accusations issued pursuant to Section 12965 and shall determine the issues raised therein.

12968. Hearings shall take place not more than 90 days after the issuance of the accusation upon which they are based.

12969. The case in support of the accusation shall be presented before the commission by the attorneys or agents of the department.

Any commissioner who, in regard to a particular case, shall have previously been assigned to engage in investigation or conciliation endeavors or shall otherwise have been or be personally or professionally connected with the parties or factual situation of the original complaint upon which the accusation is based, shall not participate in the hearing except as a witness and shall not give his or her opinion of the merits of the case, nor shall he or she participate in the deliberations of the commission in such case. In connection with complaints initiated by the director, the personal or professional association of the commissioners with the director shall not prohibit the commissioners from participating in the deliberations of such cases. In any hearing, the content of discussions or endeavors at conciliation shall not be received in evidence.

12970. (a) If the commission finds that a respondent has engaged in any unlawful practice under this part, it shall state its findings of fact and determination and shall issue and cause to be served on the parties an order requiring such respondent to cease and desist from such unlawful practice and to take such action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, as, in the judgment of the commission, will effectuate the purposes of this part, and including a requirement for report of the manner of compliance.

(b) If the commission finds the respondent has engaged in an unlawful practice under this part, and the respondent is licensed or granted a privilege by an agency of the state to do business, provide a service, or conduct activities, and the unlawful practice is determined to have occurred in connection with the exercise of that license or privilege, the commission shall provide the licensing or privilege granting agency with a copy of its decision or order.

(c) If the commission finds that a respondent has not engaged in any such unlawful practice, the commission shall state its findings of fact and determination and shall issue and cause to be served on the parties an order dismissing such accusation as to such respondent.

(d) Any findings and determination made or any order issued pursuant to this section shall be written and shall indicate the identity of the members of the commission who participated herein.

(e) Any order issued by the commission shall have printed on its face references to the rights of appeal of any party to the proceeding to whose position the order is adverse.

12971. If, at any time during the proceedings described in this part, after a complaint has been served on a respondent, the complaint is withdrawn by the complainant or dismissed by the department, or an investigation is terminated or closed by the department, notice of this fact shall be given to the respondent and the complainant without undue delay.

12972. All actions and procedures of the commission shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

12973. Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether such order or decision has been fully obeyed and implemented.

Whenever the department believes, on the basis of evidence presented to it, that any person is violating or is about to violate any final order or decision issued pursuant to this part, the department may bring an action in the Superior Court of the State of California against such person to enjoin him from continuing the violation or engaging therein or in doing anything in furtherance thereof. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction as may be proper. Such an action may be brought in any county in which actions may be brought under subdivision (b) of Section 12965.

12974. Whenever a complaint is filed with the department and the department concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this part, the director or his authorized representative may bring a civil action for appropriate temporary or preliminary relief pending final disposition of such complaint. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with Section 527 of the Code of Civil Procedure. An action seeking such temporary or preliminary relief may be brought in any county in which actions may be brought under subdivision (b) of Section 12965.

12975. Any person who shall willfully resist, prevent, impede or interfere with any member of the department or the commission or any of its agents or employees in the performance of duties pursuant to the provisions of this part relating to employment discrimination, or who shall in any manner willfully violate an order of the commission relating to such matter, is guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or both.

12976. Any person who willfully violates Section 12946 concerning recordkeeping is guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or both.

Article 2. Housing Discrimination

12980. The provisions of this article govern the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955 may file with the division a verified complaint in writing which shall state the name and address of the person alleged

to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless such judgment is a dismissal entered at the complainant's request.

(b) The Attorney General, the commission, or the director may, in a like manner, make, sign, and file such complaints citing practices which appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

(c) The department may thereupon proceed upon such complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice.

(d) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 150-day period, whichever date first occurs. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within one year from the date such notice is mailed. The superior courts of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to such alleged violation are maintained and administered, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

12981. (a) In the case of failure to eliminate a violation of Section 12955 through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the director in his discretion may cause to be issued in the name of the department a written accusation, in the same manner and with the same powers as provided in Section 12965.

(b) The commission shall hold hearings on accusations issued

pursuant to subdivision (a) in the same manner and with the same powers as provided in Sections 12967 to 12972, inclusive.

(c) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether such order or decision has been fully obeyed and implemented.

Whenever the department believes, on the basis of evidence presented to it, that any person is violating or is about to violate any final order or decision issued pursuant to this part relating to housing discrimination, the department may bring an action in the Superior Court of the State of California against such person to enjoin the person from continuing the violation or engaging therein or in doing anything in furtherance thereof. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction as may be proper. Such an action may be brought in any county in which actions may be brought under subdivision (d) of Section 12980.

12982. After a verified complaint has been filed with the department pursuant to Section 12980, and the preliminary investigation thereof has been carried out, or a 20-day period has elapsed from the filing of the verified complaint, if the preliminary investigation has not then been completed, an appropriate superior court may, upon the motion of the respondent, order the department to give to the respondent, within a specified time, a copy of any book, document, or paper, or any entries therein, in the possession or under the control of the department, containing evidence relating to the merits of the verified complaint, or to a defense thereto. The department shall comply with such an order.

12983. The department, at any time after a complaint is filed with it and it has been determined that probable cause exists for believing that the allegations of the complaint are true and constitute a violation of this part, may bring an action in the superior court to enjoin the owner of the property from taking further action with respect to the rental, lease, or sale of the property until the department has completed its investigation and made its determination; but a temporary restraining order obtained under this section shall not, in any event, be in effect for more than 20 days. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction in accordance with Section 527 of the Code of Civil Procedure.

12984. All matters connected with any conference, conciliation, or persuasion efforts under this part are privileged and may not be received in evidence. The members of the department and its staff shall not disclose to any person what has transpired in the course of such endeavors to conciliate. Every member of the department or its staff who discloses information in violation of this section is guilty of a misdemeanor. Such disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

12985. When a person is contacted by the department, a commissioner, or a member of the department's staff, following the filing of a complaint against that person, the person shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion; and if it is for conference, conciliation, or persuasion, the person shall be informed that all matters relating thereto are privileged.

12986. The department shall without undue delay cause a copy of the verified complaint that has been filed under the provisions of this part to be served upon or mailed to the owner alleged to have committed the violation complained of.

12987. If the commission, after hearing, finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take such actions, as, in the judgment of the commission, will effectuate the purpose of this part, including, but not limited to, any of the following:

(1) The sale or rental of the housing accommodation if it is still available, or the sale or rental of a like housing accommodation, if one is available, or the provision of financial assistance, terms, conditions, or privileges previously denied in violation of subdivision (f) of Section 12955 in the purchase, organization, or construction of the housing accommodation, if available.

(2) The payment of actual and punitive damages to the aggrieved person in an amount not to exceed one thousand dollars ($1,000).

(3) Affirmative or prospective relief.

However, no remedy shall be available to the aggrieved person unless the aggrieved person waives any and all rights or claims under Section 52 of the Civil Code prior to receiving a remedy, and signs a written waiver to that effect.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

12988. The commission may engage in affirmative actions with owners in furtherance of the purpose of this part as expressed in Section 12920.

CHAPTER 8. NONDISCRIMINATION AND COMPLIANCE EMPLOYMENT PROGRAMS

12990. (a) Any employer who is, or wishes to become, a contractor with the state for public works or for goods or services is subject to the provisions of this part relating to discrimination in employment and to the nondiscrimination requirements of this section and any rules and regulations which implement it.

(b) Prior to becoming a contractor or subcontractor with the state, an employer may be required to submit a nondiscrimination program to the department for approval and certification and may be required to submit periodic reports of its compliance with such a program.

(c) Every state contract and subcontract for public works or for goods or services shall contain a nondiscrimination clause prohibiting discrimination on the bases enumerated in this part by contractors or subcontractors. The nondiscrimination clause shall contain a provision requiring contractors and subcontractors to give written notice of their obligations under such clause to labor organizations with which they have a collective-bargaining or other agreement. Such contractual provisions shall be fully and effectively enforced.

(d) The department shall periodically develop rules and regulations for the application and implementation of this section, and submit them to the commission for consideration and adoption in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 3 of Division 3 of Title 2 of this code. Such rules and regulations shall describe and include, but not be limited to:

(1) Procedures for the investigation, approval, certification, decertification, monitoring, and enforcement of nondiscrimination programs.

(2) The size of contracts or subcontracts below which any particular provision of this section shall not apply.

(3) The circumstances, if any, under which a contractor or subcontractor is not subject to this section.

(4) Criteria for determining the appropriate plant, region, division, or other unit of a contractor's or subcontractor's operation for which a nondiscrimination program is required.

(5) Procedures for coordinating the nondiscrimination requirements of this section and its implementing rules and regulations with the California Plan for Equal Opportunity in Apprenticeship, with the provisions and implementing regulations of Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of this code, and with comparable federal laws and regulations concerning nondiscrimination, equal employment opportunity, and affirmative action by those who contract with the United States.

(6) The basic principles and standards to guide the department in administering and implementing this section.

(e) Where a contractor or subcontractor is required to prepare an

affirmative action, equal employment, or nondiscrimination program subject to review and approval by a federal compliance agency, that program may be filed with the department, instead of any nondiscrimination program regularly required by this section or its implementing rules and regulations. Such a program shall constitute a prima facie demonstration of compliance with this section. Where the department or a federal compliance agency has required the preparation of an affirmative action, equal employment, or nondiscrimination program subject to review and approval by the department or a federal compliance agency, evidence of such a program shall also constitute prima facie compliance with an ordinance or regulation of any city, city and county, or county which requires an employer to submit such a program to a local awarding agency for its approval prior to becoming a contractor or subcontractor with such agency.

(f) Where the department determines and certifies that the provisions of this section or its implementing rules and regulations are violated or where the commission, after hearing an accusation pursuant to Section 12967, determines a contractor or subcontractor is engaging in practices made unlawful under this part, the department or the commission may recommend appropriate sanctions to the awarding agency. Any such recommendation shall take into account the severity of the violation or violations and any other penalties, sanctions, or remedies previously imposed.

CHAPTER 9. MISCELLANEOUS

12993. (a) The provisions of this part shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this part shall be deemed to repeal any of the provisions of the Civil Rights Law or of any other law of this state relating to discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.

(b) Nothing contained in this part relating to discrimination in employment on account of sex or medical condition shall be deemed to affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan, provided such terms or conditions are in accordance with customary and reasonable or actuarially sound underwriting practices.

(c) While it is the intention of the Legislature to occupy the field of regulation of discrimination in employment and housing encompassed by the provisions of this part, exclusive of all other laws banning discrimination in employment and housing by any city, city and county, county, or other political subdivision of the state, nothing contained in this part shall be construed, in any manner or way, to limit or restrict the application of Section 51 of the Civil Code.

12994. Nothing in this part relating to discrimination in employment shall be construed to require an employer to alter his

premises to accommodate employees who have a physical handicap or medical condition, as defined in Section 12926, beyond safety requirements applicable to other employees.

12995. Nothing contained in this part relating to discrimination in housing shall be construed to:

(a) Affect the title or other interest of a person who purchases, leases, or takes an encumbrance on a housing accommodation in good faith and without knowledge that the owner or lessor of the property has violated any provision of this part.

(b) Prohibit any postsecondary educational institution, whether private or public, from providing housing accommodations reserved for either male or female students so long as no individual person is denied equal access to housing accommodations, or from providing separate housing accommodations reserved primarily for married students or for students with minor dependents who reside with them.

(c) Prohibit selection based upon factors other than race, color, religion, sex, marital status, national origin, or ancestry.

(d) Promote housing accommodations on a preferential or quota basis.

12996. If any clause, sentence, paragraph, or part of this part relating to discrimination in employment or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this part and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved.

SEC. 5. Section 19702.5 of the Government Code is amended to read:

19702.5. (a) The board shall provide to the Fair Employment and Housing Commission a copy of each affirmative action plan, and all subsequent amendments of such plans, adopted by each state agency, department, office or commission.

(b) The board shall annually, commencing January 1, 1975, submit to the Fair Employment and Housing Commission a statistical survey of the employment of each state agency, department, office or commission. The survey shall include, but not be limited to: sex, age, ethnic origin, current employment classification, salary, full-time or other employment status, department and administrative unit, and county of employment of employees.

(c) Such reports and information shall constitute public records.

SEC. 6. Section 19704 of the Government Code is amended to read:

19704. It is unlawful to require, permit or suffer any notation or entry to be made upon or in any application, examination paper or other paper, book, document, or record used under this part

indicating or in any wise suggesting or pertaining to the race, color, religion, sex, or marital status of any person. Notwithstanding the provisions of this section, subsequent to employment, ethnic, marital status, and gender data may be obtained and maintained for research and statistical purposes when safeguards preventing misuse of the information exist as approved by the Fair Employment and Housing Commission except that in no event shall any notation, entry, or record of such data be made on papers or records relating to the examination, appointment, or promotion of an individual.

SEC. 7. Section 50085.5 of the Government Code is amended to read:

50085.5. (a) Every local agency shall provide to the Fair Employment and Housing Commission a copy of any affirmative action plan and subsequent amendments to such plan adopted by the local agency.

(b) Every local agency which is required by federal law, rule or regulation to submit an annual statistical survey of the employment of the agency to the United States Equal Employment Opportunity Commission shall annually, commencing with January 1, 1975, submit a copy of such survey to the Fair Employment and Housing Commission.

(c) Such reports and information shall constitute public records.

SEC. 8. Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code is repealed.

SEC. 9. Section 56 of the Labor Code is amended to read:

56. The work of the department shall be divided into at least six divisions known as the Division of Industrial Accidents, the Division of Occupational Safety and Health, the Division of Labor Standards Enforcement, the Division of Labor Statistics and Research, the Division of Apprenticeship Standards, and the State Compensation Insurance Fund.

SEC. 10. Section 1735 of the Labor Code is amended to read:

1735. No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons, except as provided in Section 12940 of the Government Code, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter.

SEC. 11. Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code is repealed.

SEC. 12. Section 3096 of the Labor Code is amended to read:

3096. Complaints alleging discrimination against any person in the selection or training of that person in any apprenticeship training program because of the race, religious creed, color, national origin, ancestry, or sex of such person shall be filed with the Fair Employment and Housing Commission pursuant to Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code. Whenever such a complaint is filed with the

commission, the commission shall immediately send a copy of the complaint to the Administrator of Apprenticeship for investigation and action by the Division of Apprenticeship Standards pursuant to this chapter and rules and procedures prescribed by the California Apprenticeship Council. The division shall hold at least one open hearing relative to the complaint during the 21-day period following the day upon which the division receives a written copy of the complaint. If the commission finds that the complaint is not being processed in accordance with this chapter and such rules and procedures, or if the commission finds that the division has not taken action which has resolved the complaint within 30 days, the commission shall report such findings in writing to the administrator, who upon verification may cause the division to take conclusive action prior to the 61st day following the day upon which a written copy of the complaint was filed with the division. Notwithstanding any other provision of this section, the administrator shall, upon request of, and after written report by, the commission, relieve the division of the case and assign it to the commission, on or before the 61st day following the day upon which a written copy of the complaint was filed with the division. Upon receipt of such assignment, the commission shall immediately proceed to act upon the complaint. The commission shall hold at least one open hearing within 14 days following the day of assignment. The commission shall complete its investigations and any attempts to eliminate any unlawful practices discovered and shall issue an accusation thereon or advise the complainant that the evidence does not warrant further proceedings thereon, within 30 days after the complaint is assigned to the commission. The commission shall prepare such findings, determinations, and orders for issuance by the administrator, who shall notify the complainant and shall make available his findings within 10 days after review of such findings by the commission. Such findings, determinations and orders shall be subject to further legal processes as set forth in this chapter. In the event there is no action by the division or the commission within 101 days after the filing of a complaint with the commission, the person claiming to be aggrieved may bring a civil action under this part within one year after such 101st day.

The Division of Apprenticeship Standards shall inform the commission of the number and disposition of all complaints handled by the division pursuant to this section for inclusion in the commission's report to the Governor and the Legislature as required by law.

CHAPTER 993

An act to add Section 625c to the Penal Code, relating to crimes.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 625c is added to the Penal Code, to read:

625c. Any person who, with the intent to cause great bodily injury to another person, willfully removes, tampers with, injures or destroys any passenger transit vehicle or the contents or parts thereof, or who willfully removes, tampers with or destroys, or places an obstruction upon any part of the transit system, including its right-of-way, structures, fixtures, tracks, switches or controls, or who willfully sets a vehicle in motion while it is at rest and unattended is guilty of a felony.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 994

An act to add Section 6593 to the Revenue and Taxation Code, and making an appropriation to provide immediate financial relief to persons, businesses, and local agencies suffering extensive damage to real and personal property caused by torrential storms and resulting flooding, mud slides, and other conditions commencing on or about January 8, 1980, relating to natural disasters, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. It is the intent of the Legislature that a purpose of this act is to provide immediate financial relief to persons and local agencies who have suffered extensive damage to real and personal property caused by torrential storms and resulting flooding, mud slides, and other conditions commencing on or about January 8, 1980,

and continuing to the present. The Legislature finds and declares that the magnitude of this natural disaster is beyond the capabilities of the affected local governments and that immediate state assistance is urgently required.

SEC. 2. It is the intent of the Legislature that the provisions of this act are singular in nature and do not constitute a precedent for future appropriations by the Legislature for financial assistance in times of natural disaster.

SEC. 3. There is hereby appropriated from the General Fund the amount of twenty-four million six hundred thousand dollars ($24,600,000) for allocation as follows:

(a) Twenty million dollars ($20,000,000) to the Public Facilities Account in the Natural Disaster Assistance Fund for allocation to local agencies pursuant to the Natural Disaster Assistance Act.

(b) Four million six hundred thousand dollars ($4,600,000) to the State Department of Social Services for allocation pursuant to the federal Individual and Family Grant Program authorized by Section 408 of P.L. 93-288.

SEC. 4. Section 6593 is added to the Revenue and Taxation Code, to read:

6593. If the board finds that a person's failure to make a timely return or payment was due to a natural disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 6459, 6513, and 6591.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that needed disaster relief afforded by this act may be rendered at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 995

An act relating to school buildings and facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980]

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

SECTION 1. There is hereby appropriated from the General Fund in the State Treasury to the Superintendent of Public Instruction the sum of twenty thousand dollars ($20,000) for allocation in the 1980–81 fiscal year to the Konocti Unified School District for the repair and renovation of five classrooms at Burns Elementary School which were closed due to the presence of noxious gases.

SEC. 2. Notwithstanding any other provision of law to the contrary, the Superintendent of Public Instruction shall, during the 1981–82, 1982–83, and 1983–84 fiscal years, withhold from apportionments to be made to the Konocti Unified School District in each of those years an amount equal to one-third of the amount specified in Section 1 of this act. The amounts withheld pursuant to this section shall not include any amount representing interest.

SEC. 3. Due to the unique circumstances concerning the school district subject to the provisions of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Five out of a total of 21 classrooms at Burns Elementary School have been closed because of the presence of noxious fumes. In order that the classrooms may be used as soon as possible, this act must take effect immediately.

CHAPTER 996

An act to amend Sections 13530, 13533, 20880, and 20884 of, to amend and repeal Section 13470.5 of, to add Sections 13531, 13531.5, 13545, 20881, 20882, 20883, and 20896 to, and to repeal Sections 13531, 20880.5,, 20881, and 21149.5 of, the Business and Professions Code, relating to petroleum products.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980]

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

SECTION 0.5. Section 13470.5 of the Business and Professions Code, as added by Chapter 636 of the Statutes of 1980, is amended to read:

13470.5. Any person selling, offering for sale, or advertising for sale, at retail to the general public, any gasoline or other motor vehicle fuel from any place of business in this state by use of or

through or from any dispensing apparatus and displaying any sign showing the actual total price per liter, shall, in addition, display in a conspicuous fashion in full view of the retail purchaser and in accordance with provisions of this chapter, a gallon-to-liter conversion table showing quantity and price equivalents.

This section shall remain in effect until January 1, 1985, and on such date is repealed.

SEC. 1. Section 13530 of the Business and Professions Code, as added by Assembly Bill No. 2779 of the 1979–80 Regular Session, is amended to read:

13530. (a) Nothing in this article shall be construed to apply to the price signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the net tax-included price per gallon or liter for a particular brand or trade name of gasoline or motor vehicle fuel permitted under the provisions of Article 8 (commencing with Section 13470), unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter for the same brand or trade name of gasoline or other motor vehicle fuel permitted under the provisions of this article.

(b) Nothing in this article shall be construed to apply to the price signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the net tax-included price per gallon or liter and the minimum octane number for a particular brand or trade name of gasoline permitted under the provisions of Article 8 (commencing with Section 13470), unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter and the minimum octane number for the same brand or trade name of gasoline permitted under the provisions of this article.

For purposes of this subdivision "gasoline" does not include gasoline sold for aviation purposes.

As used in this subdivision "octane number" means the American Society for Testing and Materials octane number of the gasoline as defined by Section 13403.

(c) Nothing in this code is intended to require or requires that the cash or merchandise value of trading stamps be stated or set forth on any sign, statement, or other advertising media which either advertises or offers such stamps, or advertises or indicates the price of gasoline or motor fuel, whether on any dispensing apparatus or elsewhere, and which is displayed at or about any place of business offering for sale or selling gasoline or other motor vehicle fuel.

SEC. 1.1. Section 13531 of the Business and Professions Code, as added by Assembly Bill No. 2779 of the 1979–80 Regular Session, is repealed.

SEC. 1.2. Section 13531 is added to the Business and Professions Code, to read:

13531. (a) Every person offering for sale or selling any gasoline or other motor vehicle fuel to the public from any place of business

in the State of California shall post or display on such premises a sign or statement or other advertising medium which indicates or shows or advertises the price of the three major grades of gasoline or motor vehicle fuel sold, offered for sale, or advertised for sale from such place of business. Such sign shall be clearly visible from the street or highway adjacent to such premises carrying the highest traffic volume. Where the place of business offering for sale or selling gasoline or other motor vehicle fuel is situated at an intersection of streets, such sign shall be double faced and clearly visible from the two streets of the intersection adjacent to the premises.

The size and height of letters and numerals utilized in such advertising medium shall be as specified in Section 13531.5 and in all other respects shall conform to the requirements of this article.

For the purposes of this subdivision "motor vehicle fuel" does not include propane.

(b) The governing body of any city, county, or city and county may, by ordinance, exempt specified geographic areas from the provisions of this section if, pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 of the Government Code, the areas are designated on the local general plan as scenic corridors or historic preservation areas.

(c) (1) Except as provided in paragraph (2), any person who violates the provisions of subdivision (a) is guilty of an infraction and, upon conviction, is punishable by a fine not to exceed five hundred dollars ($500).

(2) Any person who violates the provisions of subdivision (a) and who has been previously convicted two or more times of a violation of subdivision (a) is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or by both.

(d) Notwithstanding the provisions of Section 13590, the district attorney of each county or, pursuant to Section 41803.5 of the Government Code, the city attorney of any general law city or chartered city within each county, or the county sealer shall, upon complaint or upon his or her own motion, enforce the provisions of this section and, in addition, may bring an action for injunctive relief in accordance with the provisions of Section 13611.

SEC. 1.3. Section 13531.5 is added to the Business and Professions Code, to read:

13531.5. (a) Except as provided in subdivision (b), every sign, statement, or advertising medium which indicates the price of gasoline or other motor vehicle fuel for sale from the premises shall show the actual price per gallon or liter of gasoline or other motor vehicle fuel including taxes, together with the word or words "gasoline" or "motor fuel" and the trade name or brand and grade designation of the gasoline or other motor vehicle fuel product advertised for sale by such advertising medium.

(b) Until such time as 75 percent of the businesses selling gasoline

or other motor vehicle fuel at retail in this state do so by the liter, such time to be determined by the department, a person selling gasoline or other motor vehicle fuel by the liter shall be authorized to advertise its price by displaying on such sign either its price per liter or its price per gallon. After that time, but not prior to July 1, 1981, every person selling gasoline or other motor vehicle fuel shall be required to advertise its price by displaying on such sign its price per liter, regardless of whether the gasoline or other motor vehicle fuel is sold by the liter or by the gallon.

(c) The numerals indicating the price on such sign shall be of uniform size and at least six inches in height. All letters or numerals used in designating the brand name, or the words "no brand," on such sign shall not be less than one-third the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width. All letters or numerals used in designating the product, such as "gasoline" or other motor fuel, shall be not less than one-third the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. All letters or numerals on such sign designating the grade of the gasoline or motor fuel shall be not less than one-sixth the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. Except as provided in subdivision (b), if gasoline or other motor vehicle fuel is sold by the liter and advertised, the word "liter" shall be displayed on such sign in letters not less than one-third the size of the numerals designating the price; and the height of such letters shall not be more than twice the dimension of the width .

(d) No person offering for sale or selling any gasoline or motor vehicle fuel from any place of business in the State of California shall post or display a sign or statement or other advertising medium reading, in substance, "save" a designated amount, or a designated amount per gallon or liter, such as "save 5 cents" or "save 5 cents per gallon or liter," or using the expression "off" a designated amount, such as "5 cents off" or "5 cents less," or "discount" of a given amount, such as "5 cents discount," or otherwise using the words "save," "off," "discount," "less," "below," or any of them, or a word or words of similar meaning or other phraseology indicating a reduced price, unless there is posted and displayed in letters and numerals of at least equal size and as part of the same sign, statement, or other advertising medium, the total price, or prices per gallon or liter, including all taxes from which such reduction will be made, the reduction given and the total net price per gallon, including all taxes, at which gasoline or other motor vehicle fuel is being sold or offered for sale. Words shall be used to explain the reduced price, the amount of reduction, and the price from which the reduction is made. Such words shall be clearly shown in letters at least one-third the size of

the numerals indicating the prices.

(e) In the event that the same brand or grade of gasoline or motor fuel is sold at different prices from the dispensing devices on the premises of any single place of business, it shall be unlawful for any person to post or display any sign or advertising medium which indicates or shows or advertises a price of such brand or grade unless such sign or advertising medium indicates, shows, or advertises in letters or numerals of equal size each of the higher prices, including all taxes, for which such brand or grade is sold, offered for sale, or advertised for sale and unless such sign or advertising medium explains the conditions under which such brand or grade is advertised for sale, at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(f) In the event that the same grade of gasoline or other motor vehicle fuel is sold at different prices from the dispensing devices on the premises of any single place of business, the various prices at which the same grade of gasoline or other motor vehicle fuel is sold shall all be advertised in the same form, either in the form of price per gallon or in the form of price per liter, as authorized or required by law.

The provisions of this section relating to the posting of octane numbers shall not be operative unless and until the Federal Trade Commission or any federal governmental agency adopts regulations relating to posting of octane numbers, in which case the provisions of this section shall become operative at the time designated in such regulations.

SEC. 1.4. Section 13533 of the Business and Professions Code, as added by Assembly Bill No. 2779 of the 1979–80 Regular Session, is amended to read:

13533. Except as provided in subdivisions (d) and (e) of Section 13531.5, the advertising medium referred to in this article shall not contain any other advertising matter whatsoever, except (1) words of description of the products sold or offered for sale, and (2) method of sale, such as "self serve," "full serve," or words of similar meaning. Any letters, figures, or numerals used on the advertising medium as permitted by (1) shall not be larger than the words, letters, figures, or numerals used to indicate the price per gallon or liter on the sign. Any letters, figures, or numerals used on the advertising medium as permitted by (2) shall not be less than one-third the size of the words, letters, figures, or numerals used to indicate the price per gallon or liter on the sign. .

SEC. 1.5. Section 13545 is added to the Business and Professions Code, to read:

13545. Nothing in this article shall be construed to prohibit the governing body of any city, county, or city and county from enacting ordinances, including, but not limited to, land use and zoning ordinances, which impose restrictions on the advertising medium referred to in this article, so long as any provisions of such ordinances

dealing with matters specifically covered in this article are identical therewith.

SEC. 1.6. Section 20880 of the Business and Professions Code is amended to read:

20880. (a) Nothing in this article shall be construed to apply to the price signs referred to in Article 5 (commencing with Section 20820) of this chapter; provided, however, that any numerals designating the net tax-included price per gallon or liter for a particular brand or trade name of gasoline or motor vehicle fuel permitted under the provisions of Article 5 (commencing with Section 20820) of this chapter, unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter for the same brand or trade name of gasoline or other motor vehicle fuel permitted under the provisions of this article.

(b) Nothing in this article shall be construed to apply to the price signs referred to in Article 5 (commencing with Section 20820) of this chapter; provided, however, that any numerals designating the net tax-included price per gallon or liter and the minimum octane number for a particular brand or trade name of gasoline permitted under the provisions of Article 5 (commencing with Section 20820) of this chapter, unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter and the minimum octane number for the same brand or trade name of gasoline permitted under the provisions of this article.

For purposes of this subdivision "gasoline" does not include gasoline sold for aviation purposes.

As used in this subdivision "octane number" means the American Society for Testing and Materials octane number of the gasoline as defined by Section 20710.

(c) Nothing in this code is intended to require or requires that the cash or merchandise value of trading stamps be stated or set forth on any sign, statement, or other advertising media which either advertises or offers such stamps, or advertises or indicates the price of gasoline or motor fuel, whether on any dispensing apparatus or elsewhere, and which is displayed at or about any place of business offering for sale or selling gasoline or other motor vehicle fuel.

SEC. 2. Section 20880.5 of the Business and Professions Code is repealed.

SEC. 3. Section 20881 of the Business and Professions Code is repealed.

SEC. 4. Section 20881 is added to the Business and Professions Code, to read:

20881. (a) Every person offering for sale or selling any gasoline or other motor vehicle fuel to the public from any place of business in the State of California shall post or display on such premises a sign or statement or other advertising medium which indicates or shows or advertises the price of the three major grades of gasoline or motor

vehicle fuel sold, offered for sale, or advertised for sale from such place of business. Such sign shall be clearly visible from the street or highway adjacent to such premises carrying the highest traffic volume. Where the place of business offering for sale or selling gasoline or other motor vehicle fuel is situated at an intersection of streets, such sign shall be double faced and clearly visible from the two streets of the intersection adjacent to the premises.

The size and height of letters and numerals utilized in such advertising medium shall be as specified in Section 20882 and in all other respects shall conform to the requirements of this article.

For purposes of this subdivision "motor vehicle fuel" does not include propane.

(b) The governing body of any city, county, or city and county may, by ordinance, exempt specified geographic areas from the provisions of this section if, pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 of the Government Code, the areas are designated on the local general plan as scenic corridors or historic preservation areas.

(c) (1) Except as provided in paragraph (2), any person who violates the provisions of subdivision (a) is guilty of an infraction and, upon conviction, is punishable by a fine not to exceed five hundred dollars ($500).

(2) Any person who violates the provisions of subdivision (a) and who has been previously convicted two or more times of a violation of subdivision (a) is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or by both.

(d) Notwithstanding the provisions of Section 20950, the district attorney of each county or, pursuant to Section 41803.5 of the Government Code, the city attorney of any general law city or chartered city within each county, or the county sealer shall, upon complaint or upon his or her own motion, enforce the provisions of this section and, in addition, may bring an action for injunctive relief in accordance with the provisions of Section 20982.

SEC. 5. Section 20882 is added to the Business and Professions Code, to read:

20882. (a) Except as provided in subdivision (b), every sign, statement, or advertising medium which indicates the price of gasoline or other motor vehicle fuel for sale from the premises shall show the actual price per gallon or liter of gasoline or other motor vehicle fuel including taxes, together with the word or words "gasoline" or "motor fuel" and the trade name or brand and grade designation of the gasoline or other motor vehicle fuel product advertised for sale by such advertising medium.

(b) Until such time as 75 percent of the businesses selling gasoline or other motor vehicle fuel at retail in this state do so by the liter, such time to be determined by the department, a person selling gasoline or other motor vehicle fuel by the liter shall be authorized

to advertise its price by displaying on such sign either its price per liter or its price per gallon. After that time, but not prior to July 1, 1981, every person selling gasoline or other motor vehicle fuel shall be required to advertise its price by displaying on such sign its price per liter, regardless of whether the gasoline or other motor vehicle fuel is sold by the liter or by the gallon.

(c) The numerals indicating the price on such sign shall be of uniform size and at least six inches in height. All letters or numerals used in designating the brand name, or the words "no brand," on such sign shall not be less than one-third the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width. All letters or numerals used in designating the product, such as "gasoline" or other motor fuel, shall be not less than one-third the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. All letters or numerals on such sign designating the grade of the gasoline or motor fuel shall be not less than one-sixth the size of the numerals designating the price; and the height of such letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. Except as provided in subdivision (b), if gasoline or other motor vehicle fuel is sold by the liter and advertised, the word "liter" shall be displayed on such sign in letters not less than one-third the size of the numerals designating the price; and the height of such letters shall not be more than twice the dimension of the width.

(d) No person offering for sale or selling any gasoline or motor vehicle fuel from any place of business in the State of California shall post or display a sign or statement or other advertising medium reading, in substance, "save" a designated amount, or a designated amount per gallon or liter, such as "save 5 cents" or "save 5 cents per gallon or liter," or using the expression "off" a designated amount, such as "5 cents off" or "5 cents less," or "discount" of a given amount, such as "5 cents discount," or otherwise using the words "save," "off," "discount," "less," "below," or any of them, or a word or words of similar meaning or other phraseology indicating a reduced price, unless there is posted and displayed in letters and numerals of at least equal size and as part of the same sign, statement, or other advertising medium, the total price, or prices per gallon or liter, including all taxes from which such reduction will be made, the reduction given and the total net price per gallon, including all taxes, at which gasoline or other motor vehicle fuel is being sold or offered for sale. Words shall be used to explain the reduced price, the amount of reduction, and the price from which the reduction is made. Such words shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(e) In the event that the same brand or grade of gasoline or motor fuel is sold at different prices from the dispensing devices on the

premises of any single place of business, it shall be unlawful for any person to post or display any sign or advertising medium which indicates or shows or advertises a price of such brand or grade unless such sign or advertising medium indicates, shows, or advertises in letters or numerals of equal size each of the higher prices, including all taxes, for which such brand or grade is sold, offered for sale, or advertised for sale and unless such sign or advertising medium explains the conditions under which such brand or grade is advertised for sale, at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(f) In the event that the same grade of gasoline or other motor vehicle fuel is sold at different prices from the dispensing devices on the premises of any single place of business, the various prices at which the same grade of gasoline or other motor vehicle fuel is sold shall all be advertised in the same form, either in the form of price per gallon or in the form of price per liter, as authorized or required by law.

The provisions of this section relating to the posting of octane numbers shall not be operative unless and until the Federal Trade Commission or any federal governmental agency adopts regulations relating to posting of octane numbers, in which case the provisions of this section shall become operative at the time designated in such regulations.

SEC. 6. Section 20883 is added to the Business and Professions Code, to read:

20883. If gasoline or other motor vehicle fuel is offered for sale or advertised for sale from the premises of any place of business in this state, but not under any trade name or brand name, then the words "no brand" shall be used and designated on the advertising medium.

SEC. 7. Section 20884 of the Business and Professions Code is amended to read:

20884. Except as provided in subdivisions (d) and (e) of Section 20882, the advertising medium referred to in this article shall not contain any other advertising matter whatsoever, except (1) words of description of the products sold or offered for sale, and (2) method of sale, such as "self serve", "full serve", or words of similar meaning. Any letters, figures or numerals used on the advertising medium as permitted by (1) shall not be larger than the words, letters, figures, or numerals used to indicate the price per gallon or liter on the sign. Any letters, figures or numerals used on the advertising medium as permitted by (2) shall not be less than one-third the size of the words, letters, figures or numerals used to indicate the price per gallon or liter on the sign.

SEC. 8. Section 20896 is added to the Business and Professions Code, to read:

20896. Nothing in this article shall be construed to prohibit the governing body of any city, county, or city and county from enacting ordinances, including, but not limited to, land use and zoning

ordinances, which impose restrictions on the advertising medium referred to in this article, so long as any provisions of such ordinances dealing with matters specifically covered in this article are identical therewith.

SEC. 8.2. Section 21149.5 of the Business and Professions Code, as added by Chapter 698 of the Statutes of 1980, is repealed.

SEC. 8.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 2779 are both chaptered and become effective on or before January 1, 1981, and this bill is chaptered after Assembly Bill No. 2779, that Sections 1, 1.1, 1.2, 1.3, 1.4, and 1.5 of this act shall become operative, in which case Sections 1.6, 2, 3, 4, 5, 6, 7, and 8 of this act shall not become operative.

SEC. 9. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 997

An act to amend Section 326.5 of the Penal Code, relating to bingo.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 326.5 of the Penal Code is amended to read:

326.5. (a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game which is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, provided that such ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701*l* of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations; and provided that the proceeds of such games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution.

(c) A violation of subdivision (b) of this section shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine shall be deposited in the general fund of the city, county,

or city and county which enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county which enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game

(i) No individual corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used only for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purposes, except as follows:

(1) Such proceeds may be used for prizes.

(2) A portion of such proceeds, not to exceed 10 percent of the proceeds before the deduction for prizes, or five hundred dollars ($500) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, and administrative expenses.

(3) Such proceeds may be used to pay license fees.

(4) A city, county, or city and county which enacts an ordinance permitting bingo games may specify in such ordinance that if an organization's monthly gross receipts from bingo games exceed five thousand dollars ($5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses and

payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2) of this subdivision.

(k) (1) A city, county, or city and county may impose a license fee on each organization which it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars ($50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars ($50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee of 1 percent of the monthly gross receipts over five thousand dollars ($5,000) derived from bingo games shall be collected monthly by the city, county, or city and county issuing the license.

(*l*) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted.

(m) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars ($250) in cash or kind, or both, for each separate game which is held.

(n) As used in this section "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All such preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

CHAPTER 998

An act to amend Section 441.18 of, and to add Section 1271.1 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 441.18 of the Health and Safety Code, as amended by Section 4 of Chapter 594 of the Statutes of 1980, is amended to read:

441.18. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the commission, within four months after the close of the organization's calendar or fiscal year for all annual accounting periods to which the systems of accounting and uniform reporting approved under Section 441.17 are made applicable thereby, all of the following reports on forms specified by the commission which shall be in accord with such systems of accounting and uniform reporting all of the following:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual period ending on the balance sheet date.

(c) A statement detailing the source and application of funds expended by the health facility for the period encompassed by the income statement required by subdivision (b).

(d) A statement reporting the information required in subdivisions (a), (b), and (c) of this section for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(e) A report of health facility expenditures which allocates the costs of non-revenue-producing departments of a health facility to the other non-revenue- and revenue-producing centers which they serve, similar to the "step-down" or "double-apportionment" methods of cost finding used in reporting health facility cost experience under Title XVIII of the Federal Social Security Act. Any health facility which participates in Title XVIII as a provider of health care services may elect to file the cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII in place of the report required by the commission under this subdivision.

(f) The report required by subdivision (e) shall be accompanied by an accurate and sufficiently detailed statistical report containing data taken from the health facility's basic accounts and patient statistics as maintained under one of the systems approved in accordance with Section 441.17, which identifies costs related to categories, types or units of health care services delivered to patients by the operating departments of the health facility in accordance with a list of such services provided by the commission acting under the provisions of Section 441.15. Any health facility which participates in Title XVIII of the Federal Social Security Act may elect to file the statistical reports covering the provision of such health care services required under Title XVIII in place of the report required by the commission under this subdivision.

Health facilities described in subdivision (b) of Section 441.16 shall file such statements and reports, not inconsistent with subdivision (b) of Section 441.16, as the commission may reasonably require for the annual financial reporting period of such health facilities or group of health facilities.

On or before January 1, 1981, the commission, with the advice and consultation of the State Department of Health Services, shall adopt a single, uniform fiscal reporting document for long-term care facilities for use by the commission and the department.

(g) If federal regulations implementing subsection (a) of Section 19 of Public Law 95-142 relating to hospital reporting requirements for the Uniform Hospital Discharge Data Set (UHDDS) have not been adopted on or before July 1, 1981, every health facility for the first accounting year commencing on or after July 1, 1981, shall file a Hospital Discharge Abstract Data Record limited to all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Zip code.
(5) Admission date.
(6) Source of admission.
(7) Type of admission.
(8) Discharge date.
(9) Principal diagnosis.
(10) Principal procedure.
(11) Disposition of patient.
(12) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner.

A health facility or its designee shall annually file the Hospital Discharge Abstract Record not later than six months after the close of the facility's calendar or fiscal year. A health facility may submit the Hospital Discharge Abstract Record in a computer tape format, and a health facility may use coding from the International Coding of Diseases in reporting diagnoses and procedures.

When the discharge data reporting requirements of Public Law 95-142 are implemented, the requirements of the Hospital Discharge Abstract Data Record adopted by the commission pursuant to this subdivision shall cease to be effective and the requirements of the federal regulations shall thereafter govern the data to be reported pursuant to this subdivision.

The commission shall adopt forms of authentication for use by health facility officers or licensed accountants preparing reports under this section stating that each such officer or accountant making the authentication believes that to the extent of his knowledge and information each statement in the report is true.

With the exception of hospital discharge abstract data, all reports required to be filed by the health facility with the commission shall

be available for inspection by the public during regular working hours at the principal location of the health facility.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 2. Section 1271.1 is added to the Health and Safety Code, to read:

1271.1. (a) A health facility may place up to 50 percent of its licensed bed capacity in voluntary suspension for a period not exceeding three years, upon submitting written notification to the state department and to the Office of Statewide Health Planning and Development. However, this section does not authorize a health facility to deactivate all beds utilized for the provision of a basic service or to deactivate all beds utilized for a special service or other supplemental service for which the health facility holds a special permit or licensure approval. Prior to the expiration of such a voluntary suspension, the health facility may request an extension, which may be granted by the director if the director finds, after consultation with the Director of the Office of Statewide Health Planning and Development, that there is no identified need for additional beds (of the category suspended) in the service area of the health facility. If during a period of voluntary suspension under this section the statewide Health Facilities and Services Plan identifies a need for additional beds (of the category suspended) in the health facility's service area, the Director of the Office of Statewide Health Planning and Development may require the health facility to terminate the voluntary suspension and exercise one of the following options, at the discretion of the health facility: (1) place some or all of the suspended beds in operation, in accordance with such identified need, within one year following his or her order, or (2) alternatively have such beds deemed permanently converted to other than patient use within the meaning of Section 1268.

(b) A health facility may remove all or any portion of its voluntarily suspended bed capacity from voluntary suspension by request to the state department, which request shall be granted unless the areas housing the suspended beds fail to meet currently applicable operational requirements or fail to meet construction requirements for the health facility in effect at the time the request for suspension of such beds was received by the state department.

(c) While health facility beds are in suspension pursuant to subdivision (a), such beds shall not be deemed to be permanently converted to other than patient use, for purposes of Section 1268. The requirements of this section shall not apply to any temporary deactivation of beds necessitated by the work of construction or other activities required with respect to a project for which a certificate of need or certificate of exemption has been granted pursuant to Part 1.5 (commencing with Section 437) of Division 1. Nothing in this section shall in any way limit or affect the authority of a health facility to use a portion of its beds in one bed classification

in another bed classification as permitted by subdivision (a) of Section 437.10, including the use of general acute care beds as skilled nursing beds; provided, however, that when beds in a particular classification are suspended pursuant to this section, the remainder of the health facility's beds in the same classification may not be used so as to result in elimination of all beds utilized for provision of a basic service or utilized for provision of a special service or other supplemental service for which the health facility holds a special permit or licensure approval.

CHAPTER 999

An act to amend Sections 99268.3, 130053.5, and 130054 of, and to repeal Article 4 (commencing with Section 130290) of Chapter 4 of Division 12 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 99268.3 of the Public Utilities Code is amended to read:

99268.3. (a) In the case of an operator which is serving an urbanized area, and which was eligible for funds under this article during the 1978–79 fiscal year even though not required to be in compliance with Section 99268 or which commenced operation after that fiscal year, the operator shall be eligible for such funds in any fiscal year, commencing with claims for the 1980–81 fiscal year, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal to one-fifth or to the ratio it had during the 1978–79 fiscal year, whichever is greater.

(b) In addition, such an operator having a ratio of the sum of fare revenues and local support to operating cost greater than one-fifth during the 1978–79 fiscal year shall, at least, maintain that ratio in order to be eligible for funds under this article.

(c) In the case of an operator serving an urbanized area, and which was in operation during the 1978–79 fiscal year even though not then eligible for funds under this article, but which has since become eligible for such funds, the operator shall be eligible for such funds in any fiscal year, commencing with the 1980–81 fiscal year, if it complies with either of the following:

(1) The requirements of Section 99268.

(2) The requirements of subdivisions (a) and (b).

SEC. 2. Section 130053.5 of the Public Utilities Code is amended to read:

130053.5. (a) The appointing authority specified in subdivision

(a), (b), (c), or (d) of Section 130053 may appoint an alternate member to the Riverside County Transportation Commission to represent, on a temporary basis, a regular member it has appointed, but only in those cases where the regular member cannot attend the meeting.

(b) An alternate member shall be:

(1) In the case of the Riverside County Board of Supervisors, another supervisor or mayor or city councilman serving within Riverside County.

(2) In the case of the Riverside County City Selection Committee, any mayor or city councilman serving within the county, excluding the City of Riverside.

(3) In the case of the City of Riverside, the mayor, if not a member, or another member of the City Council of the City of Riverside.

(4) In the case of the citizen member, an elected official in the county or a citizen who is not such an elected official but who is a resident of the county.

(c) No alternate member shall serve as such for more than one of the above appointing authorities or as a regular member of the commission at the same time.

SEC. 3. Section 130054 of the Public Utilities Code is amended to read.

130054. The San Bernardino County Transportation Commission shall be the San Bernardino Associated Governments, consisting of the following members:

(a) Five members of the San Bernardino County Board of Supervisors.

(b) The Mayor of the City of San Bernardino.

(c) One member from each of the other incorporated cities of San Bernardino County, who shall be a mayor or a city councilman.

(d) One nonvoting member appointed by the Governor.

SEC. 4. Article 4 (commencing with Section 130290) of Chapter 4 of Division 12 of the Public Utilities Code is repealed.

CHAPTER 1000

An act to amend Sections 82029, 82033, 82034, 87206, and 87207 of, and to repeal Section 87206.5 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 82029 of the Government Code is amended to read:

82029. "Immediate family" means the spouse and dependent children.

SEC. 2. Section 82033 of the Government Code is amended to read:

82033. "Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is greater than one thousand dollars ($1,000), provided that a leasehold interest does not include a lessee's interest in a lease on real property which expires within 10 years of the first day of the period covered by the filer's statement of economic interest. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater.

SEC. 3. Section 82034 of the Government Code is amended to read:

82034. "Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value exceeds one thousand dollars ($1,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the commission.

SEC. 4. Section 87206 of the Government Code is amended to read:

87206. When an investment or an interest in real property is

required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest;

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

(c) The address or other precise location of the real property;

(d) A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars ($1,000) but does not exceed ten thousand dollars ($10,000), whether it exceeds ten thousand dollars ($10,000) but does not exceed one hundred thousand dollars ($100,000), or whether it exceeds one hundred thousand dollars ($100,000).

(e) In the case of an investment which constitutes 50 percent or more of the ownership interest in a business entity, disclosure of the investments and interests in real property of the business entity;

(f) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(g) For purposes of disclosure under this article, "interest in real property" does not include the principal residence of the filer.

SEC. 4.5. Section 87206 of the Government Code is amended to read:

87206. When an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars ($1,000) but does not exceed ten thousand dollars ($10,000), whether it exceeds ten thousand dollars ($10,000) but does not exceed one hundred thousand dollars ($100,000), or whether it exceeds one hundred thousand dollars ($100,000).

(e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(f) For purposes of disclosure under this article, "interest in real property" does not include the principal residence of the filer.

SEC. 5. Section 87206.5 of the Government Code is repealed.

SEC. 6. Section 87207 of the Government Code is amended to read:

87207. (a) When income is required to be reported under this article, the statement shall contain, except as provided in subsection

(b):

(1) The name and address of each source of income aggregating two hundred fifty dollars ($250) or more in value, or twenty-five dollars ($25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least two hundred fifty dollars ($250) but did not exceed one thousand dollars ($1,000), whether it was in excess of one thousand dollars ($1,000) but was not greater than ten thousand dollars ($10,000), or whether it was greater than ten thousand dollars ($10,000);

(3) A description of the consideration, if any, for which the income was received;

(4) In the case of a gift, the amount and the date on which the gift was received.

(5) In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(b) When income of a business entity, including income of a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity;

(2) In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars ($1,000);

(3) In the case of a business entity not covered by paragraph (2), the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000) during a calendar year.

SEC. 7. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill No. 1682 are both chaptered and become effective January 1, 1981, both bills amend Section 87206 of the Government Code, and this bill is chaptered after Assembly Bill No. 1682, that Section 87206 of the Government Code, as amended by Section 3 of Assembly Bill No. 1682, be further amended on the operative date of this act in the form set forth in Section 4.5 of this act to incorporate the changes in Section 4.5 proposed by this bill. Therefore, Section 4.5 of this act shall become operative only if this bill and Assembly Bill No. 1682 are both chaptered and become effective January 1, 1981, both bills amend Section 87206, and this bill is chaptered after Assembly Bill No. 1682, in which case Section 4.5 of this act shall become operative on the operative date of this act and Section 4 of this act shall not

become operative.

CHAPTER 1001

An act to amend Sections 1812.106, 1812.116, 1812.119, and 1812.125 of the Civil Code, relating to discount buying organizations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Section 1812.106 of the Civil Code is amended to read:

1812.106. Every discount buying organization, before obtaining the signature of a potential buyer on any application or contract for discount buying services, shall provide to the buyer, and shall allow the buyer to retain, the following written disclosures:

(a) The exact nature of the services it provides, specifying the general categories of goods which are available at the discount buying organization's place of business or warehouse, those categories of goods, if any, which must be ordered or obtained through stores to which the discount buying organization will refer the customer, and those categories of goods, if any, which must ordered or obtained through the mail.

(b) A list, current within the previous 60 days, of at least 100 items which are sold by or through the organization or available to those who contract with the organization, identified by brand name, model, and total price including a reasonable estimate of freight charges, if any are to be imposed; a reasonable estimate of delivery charges, if any are to be imposed; a reasonable estimate of setup charges, if any are to be imposed; the discount buying organization's price markup and a reasonable estimate of any other charges the discount buying organization imposes. These items shall be reasonably representative as to the type of goods available. In lieu of providing such a list, the discount buying organization shall provide and allow the buyer to retain a list of at least 100 items which were purchased by its members through the discount buying organization during the preceding 60 days. Such list shall identify the items by brand name, model, and total selling price including freight charges, if any, delivery charges, if any, setup charges, if any, the discount buying organization's price markup, and any other charges imposed by the discount buying organization, and shall be representative as to the type of goods sold and the prices charged for the listed goods sold during that period. If the maximum number of items available through a discount buying organization is less than 100 in number, it may comply with this section by furnishing a list of the total items

available, identified as described above with a statement that those are the only goods presently available. Any list required by this subdivision shall state the date on which it was prepared.

(c) A statement of the discount buying organization's policy with respect to warranties or guarantees on goods ordered, and the policy with respect to the return of ordered goods, cancellation of orders by the buyer and refunds for cancellation or return.

(d) A description of any charges, such as freight charges, delivery charges, setup charges, seller's markup and any other charges which are incidental to the purchase of goods through the discount buying organization and which are to be paid by the buyer. A disclosure of these costs in specific monetary amounts shall also be made on each order placed through the discount buying organization.

(e) If any stockholder, director, officer, general or limited partner of the discount buying organization, as the case may be:

(1) Has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge, if such felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, misappropriation of property, or a violation of this title; or

(2) Has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment if the civil action alleged fraud, embezzlement, fraudulent conversion or misappropriation of property or a violation of this title or the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property or the use of unfair, unlawful or deceptive business practices; or

(3) Is subject to any currently effective injunction or restrictive order relating to business activity as the result of an action brought by a public agency or department, including, but not limited to, an action affecting any vocational license, a statement so stating, and including the name of the court, the date of the conviction, judgment, order or injunction and, if applicable, the name of the governmental agency that filed the action resulting in the conviction, judgment, order, or injunction.

SEC. 2. Section 1812.116 of the Civil Code is amended to read:

1812.116. (a) Every contract for discount buying services shall provide that if any goods ordered by the buyer from the seller are not delivered to the buyer or available for pickup by the buyer at a location within his county of residence within six weeks from the date the buyer placed an order for such goods, then any moneys paid by the buyer for such goods in advance of delivery shall, upon the buyer's request, be fully refunded unless a predetermined delivery date has been furnished to the buyer in writing at the time he ordered such goods and the goods are delivered to the buyer or are available for pickup by that date.

(b) Prior to receiving from a buyer any payments pursuant to the terms of a contract for discount buying services, the discount buying organization shall establish a trust account at a federally insured bank

or savings and loan association for the deposit, except for the first fifty dollars ($50) of a downpayment, of the contract payments as they are received.

If the discount buying organization sells or assigns the contract for discount buying services to a third party and such third party pays the discount buying organization as consideration an amount which is commercially reasonable for the sale or assignment of the contract, the discount buying organization shall deposit all funds received from the third party into the trust account.

If the discount buying organization in any manner transfers the contract for discount buying services to a third party which is to act as the recipient of contract payments from the buyer and such third party does not pay the discount buying organization as consideration for such transfer an amount which is commercially reasonable, then all sums received by the third party from the buyer shall be deposited in the discount buying organization's trust account for contract payments.

As to each buyer, during the first one-fourth or first six months of the buyer's membership period, whichever is shorter, funds representing no more than one-fourth of the contract price may be withdrawn from the trust account. During each subsequent one-fourth or six-month period, whichever is shorter, funds representing an additional one-fourth of the contract price may be withdrawn from the trust account.

(c) (1) Prior to receiving funds for an order of goods or services from any buyer, the discount buying organization shall establish a trust account at a federally insured bank or savings and loan association for the deposit of the funds. The discount buying organization shall deposit into the account all funds received from buyers for orders of goods or services regardless of how the funds are styled, including but not limited to, down payment, partial payment, payment in full, freight charge, or any other terms. If the total cost of goods or services ordered by a buyer on any one day does not exceed fifty dollars ($50), including taxes, freight charges, delivery charges, markup and all other charges collected by the discount buying organization, then the funds received from the buyer need not be deposited in the trust account.

(2) The trust account required by this section shall be created and maintained for the benefit of buyers who order goods or services from or through the discount buying organization. The discount buying organization shall not in any manner encumber the corpus of the account and shall not withdraw money deposited therein on behalf of a buyer except: (i) in partial or full payment to the discount buying organization's source for the goods or services ordered by the buyer, or (ii) to make a refund to the buyer. After the withdrawal of money from a buyer's deposit pursuant to (i) or (ii) above, only that portion of the remainder of the deposit which represents compensation to the discount buying organization may be withdrawn.

SEC. 3. Section 1812.119 of the Civil Code is amended to read:

1812.119. (a) Any contract for discount buying services which does not comply with the applicable provisions of this title shall be voidable by the buyer.

(b) No discount buying organization shall make or authorize the making of any reference to its compliance with this title.

SEC. 4. Section 1812.125 of the Civil Code is amended to read:

1812.125. (a) Any person who violates subdivision (b) or (c) of Section 1812.116 shall, upon conviction, be fined not more than ten thousand dollars ($10,000) for each violation, or imprisoned in the state prison, or imprisoned in county jail for not more than one year, or be punished by both such fine and imprisonment.

(b) Any person who violates any other provision of this title shall be guilty of a misdemeanor.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Substantial numbers of consumers have encountered problems in receiving goods ordered from certain consumer buying organizations. In order for consumers to be in a better position to determine the nature of the organization he or she is contemplating dealing with and to promptly curtail activities by certain consumer buying organizations which have adversely affected consumers, it is necessary that this act take effect immediately.

SEC. 6. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 1002

An act to add Section 27361.4 to the Government Code, relating to county recording fees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 27361.4 is added to the Government Code, to read:

27361.4. The board of supervisors of any county may provide for an additional fee of one dollar ($1) for filing every instrument, paper, or notice for record, in order to defray the cost of converting the county recorder's document storage system to micrographics. Upon completion of the conversion and payment of the costs therefor, such additional fee shall no longer be imposed.

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

In order that counties which are in the process of converting their county recorder's document storage system to a more efficient system utilizing micrographics may recoup a portion of the cost of installing such a system from the current users and beneficiaries of the system, it is essential that this act go into effect immediately.

CHAPTER 1003

An act to amend Sections 6035, 6036, 6040, 6041, 6042, and 6043 of, and to add Section 6044 to, the Penal Code, relating to corrections and probation officers, making an appropriation therefor and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Section 6035 of the Penal Code is amended to read:

6035. (a) For the purpose of raising the level of competence of local corrections and probation officers, the board shall adopt, and may from time to time amend, rules establishing minimum standards for the selection and training for such officers employed by any city, county, or city and county. All such rules shall be adopted and amended pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any city, county, or city and county receiving state aid pursuant to Article 3 (commencing with Section 6040) shall adhere to the standards for selection and training established by the board. The board may defer the promulgation of selection standards until necessary research for job relatedness is completed. In such case, and until selection standards are adopted, a city, county, or city and county may receive state aid upon certification of willingness to adhere to the training standards pursuant to Section 6041.

(c) Minimum training standards may include, but are not limited to, basic, entry, continuation, supervisory, management, and

specialized assignments.

(d) Training standards shall apply to all local corrections and probation officers employed by jurisdictions receiving funds under Article 3 (commencing with Section 6040). Exemptions from this requirement for personnel hired prior to July 1, 1980, shall be determined by the board. For the purpose of such exemptions, the board may develop written or oral equivalency examinations, a certification process which recognizes standards equivalency through a combination of professional experience and training, or a combination of examination and certification.

SEC. 2. Section 6036 of the Penal Code is amended to read:

6036. For purposes of implementing this article, the board shall have the following powers:

(a) Approve or certify, or both, training and education courses at institutions approved by the board.

(b) Make such inquiries as may be necessary to determine whether every city, county, and city and county receiving state aid pursuant to this chapter is adhering to the standards for selection and training established pursuant to this chapter.

(c) Develop and operate a professional certificate program which provides recognition of achievement for local corrections and probation officers whose agencies participate in the program.

(d) Adopt such regulations as are necessary to carry out the purposes of this chapter.

(e) Perform such other activities and studies as would carry out the intent of this article.

SEC. 3. Section 6040 of the Penal Code is amended to read:

6040. There is hereby created in the State Treasury a Corrections Training Fund, which is hereby appropriated, without regard to fiscal years, exclusively for the costs of administration, the development of appropriate standards, the development of training, program evaluation, and grants to local government pursuant to this article.

SEC. 4. Section 6041 of the Penal Code is amended to read:

6041. Any city, county, or city and county which desires to receive state aid pursuant to this article shall make application to the board for such aid. The initial application shall be accompanied by a certified copy of an ordinance adopted by the governing body providing that, while receiving any state aid pursuant to this article, the city, county, or city and county, will adhere to the standards for selection and training established by the board. The application shall contain such information as the board may request.

SEC. 5. Section 6042 of the Penal Code is amended to read:

6042. The board shall annually allocate and the State Treasurer shall periodically pay from the Corrections Training Fund, at intervals specified by the board, to each city, county, or city and county which has applied and qualified for aid pursuant to this article an amount determined by the board pursuant to standards set forth in its regulations. In no event shall any allocation be made to any city,

county, or city and county which is not adhering to the selection and training standards established by the board as applicable to such city, county, or city and county.

SEC. 6. Section 6043 of the Penal Code is amended to read:

6043. Peace officer personnel, whose jurisdictions are eligible for training subvention pursuant to Chapter 1 (commencing with Section 13500) of Title 4 of Part 4 shall not be eligible to receive funds under this article, except that peace officers assigned full time to correctional duties may undergo training in correctional subjects and their jurisdictions may receive funds under this article for such training.

SEC. 7. Section 6044 is added to the Penal Code, to read:

6044. In order for the Legislature to determine the need to continue or modify the standards and training program for local corrections personnel, the board shall on June 30, 1981, and annually thereafter, submit a report to the Legislature regarding the progress and effectiveness of the program.

SEC. 8. In order to develop selection standards as specified in subdivision (b) of Section 6035 of the Penal Code, the Board of Corrections shall contract with an appropriate firm or entity for research on validated standards for entry probation, entry juvenile institution, and entry adult institution positions utilizing funds from the Corrections Training Fund.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to clarify the provisions of Chapter 1148 of the Statutes of 1979 which will become operative July 1, 1980, it is necessary that this act go into effect immediately.

CHAPTER 1004

An act to amend Sections 13352, 23101, 23102, 23105, and 23106 of, and to repeal and amend Section 23102.1 of, the Vehicle Code, relating to public offenses.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 13352 of the Vehicle Code is amended to read:

13352. The department shall, except for a conviction or finding described in subdivision (a) where the court does not order the department to suspend, immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of

a duly certified abstract of the record of any court showing that the person has been convicted of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of subdivison (c) of Section 23105, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed the offense of operating a vehicle while under the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105. The suspension or revocation shall be as follows:

(a) Upon a first such conviction or finding, other than under Section 23101 or 23106 such privilege shall be suspended for a period of six months, if the court orders the department to suspend such privilege.

(b) Upon a first such conviction or finding under Section 23101 or 23106 such privilege shall be suspended for one year and shall not be reinstated until such person gives proof of ability to respond in damages as defined in Section 16430.

(c) Upon a second conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105, or any combination of such convictions or findings of an offense which occurred within five years of the date of a prior offense which resulted in a conviction, such privilege shall be suspended and shall not be reinstated in less than one year and until such person gives proof of ability to respond in damages as defined in Section 16430.

(d) Upon a second such conviction or finding under Section 23101 or 23106 within three years, such privilege shall be revoked and shall not be reinstated in less than five years and until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license, and the person gives proof of ability to respond in damages as defined in Section 16430.

(e) Upon a third or subsequent conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105, or any combination of such convictions or findings of an offense which ocurred within seven years of the date of a prior offense which resulted in a conviction, such privilege shall be revoked and shall not be reinstated for a period of three years and until such person files proof of ability to respond in damages as defined in Section 16430.

For the purpose of subdivisions (c), (d), and (e), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court, specified in the first paragraph of this section shall also be considered a conviction.

Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report such findings to the department.

SEC. 2. Section 23101 of the Vehicle Code, as amended by Section 3 of Chapter 661 of the Statutes of 1980, is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway, and when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred fifty-five dollars ($355) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred fifty-five dollars ($355), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing, as part of the

sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 3. Section 23101 of the Vehicle Code, as amended by Section 4 of Chapter 661 of the Statutes of 1980, is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred twenty dollars ($320) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23102, 23105, or

23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall become operative on July 1, 1982.

SEC. 4. Section 23102 of the Vehicle Code, as amended by Section 6 of Chapter 661 of the Statutes of 1980, is amended to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than three hundred fifty-five dollars ($355) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than two hundred fifty-five dollars ($255) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of an offense under this section or Section 23105 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000). Any person convicted under this section

of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000).

(e) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or under Section 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least three hundred fifty-five dollars ($355) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000).

(f) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23105, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least three hundred fifty-five dollars ($355), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense

for not less than one day nor more than 30 days.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 5. Section 23102 of the Vehicle Code, as amended by Section 7 of Chapter 661 of the Statutes of 1980, is amended to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than three hundred twenty dollars ($320) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than two hundred twenty dollars ($220) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of an offense under this section or Section 23105 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000). Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000).

(e) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or under Section 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction

under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000).

(f) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23105, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall become operative on July 1, 1982.

SEC. 6. Section 23102.1 of the Vehicle Code, as amended by Section 6 of Chapter 276 of the Statutes of 1980, is repealed.

SEC. 7. Section 23102.1 of the Vehicle Code, as added by Section 7 of Chapter 276 of the Statutes of 1980, is amended to read:

23102.1. Notwithstanding the requirements of subdivisions (e) and (f) of Section 23102, the court may suspend execution of the sentence, as to the imprisonment of any person convicted for a second offense under Section 23102, if the person has consented to participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code and the court has referred the person to such a program. If at any time the person is found by the court to have failed to comply

with the rules and regulations of the program or does not successfully complete the program, the court shall revoke such suspension or shall revoke and terminate probation, or both, and shall proceed in the manner provided in subdivision (c) of Section 1203.2 of the Penal Code.

This section shall not be applicable to any person convicted for a third or subsequent offense, under Section 23102, and shall not affect the imposition of any fines on persons convicted for any offense under Section 23102.

SEC. 8. Section 23105 of the Vehicle Code, as amended by Section 12 of Chapter 276 of the Statutes of 1980, is amended to read:

23105. (a) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) It is unlawful for any person who is addicted to the use of any drug, except such a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code, to drive a vehicle upon any highway.

(d) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than two hundred eighty-five dollars ($285) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to participate, and does participate in and successfully completes, a driver improvement program or a treatment program for persons who are habitual users of drugs, or both such programs, as designated by the court, a court shall punish such person by a fine of not less than one hundred eighty-five dollars ($185) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(e) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred eighty-five dollars ($285) nor more than one thousand dollars ($1,000). Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred eighty-five dollars ($285) nor more than one thousand dollars ($1,000).

(f) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than two hundred eighty-five dollars ($285) nor more than one thousand dollars ($1,000).

(g) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23102, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred eighty-five dollars ($285), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(i) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(j) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 9. Section 23105 of the Vehicle Code, as added by Section 13 of Chapter 276 of the Statutes of 1980, is amended to read:

23105. (a) It is unlawful for any person who is under the

influence of any drug to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) It is unlawful for any person who is addicted to the use of any drug, except such a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code, to drive a vehicle upon any highway.

(d) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to participate, and does participate in and successfully completes, a driver improvement program or a treatment program for persons who are habitual users of drugs, or both such programs, as designated by the court, a court shall punish such person by a fine of not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(e) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000). Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(f) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than

two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(g) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23102, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(i) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(j) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall become operative on July 1, 1982.

SEC. 10. Section 23106 of the Vehicle Code, as amended by Section 14 of Chapter 276 of the Statutes of 1980, is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two

hundred eighty-five dollars ($285) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101, 23102, or 23105 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred eighty-five dollars ($285), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, or 23105 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 11. Section 23106 of the Vehicle Code, as added by Section 15 of Chapter 276 of the Statutes of 1980, is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and, when so

driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101, 23102, or 23105 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, or 23105 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall become operative on July 1, 1982.

CHAPTER 1005

An act to amend Section 34327.6 of the Health and Safety Code, relating to housing authorities.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 34327.6 of the Health and Safety Code is amended to read:

34327.6. All funds of housing authorities not subject to audit by a federal agency shall be audited at least once each year at the expense of the housing authority by a certified public accountant or a public accountant holding a valid permit issued by the State Board of Accountancy. Audits made by a certified public accountant, or a public accountant, together with a final balance sheet and operations statement for the year for all authority funds, shall be filed for record purposes with the Department of Housing and Community Development. The authority shall prepare and file with the Department of Housing and Community Development a budget for the year for which the audit is taken with each audit prepared or submitted pursuant to this section.

CHAPTER 1006

An act to amend Section 2353 of, and to add Section 12157.5 to, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

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

SECTION 1. Section 2353 of the Fish and Game Code is amended to read:

2353. Notwithstanding any other provision of law, birds, mammals, fish, reptiles, or amphibia may be brought into this state and possessed if legally taken and legally possessed outside of this state and a declaration is made at or immediately prior to the time of entry.

Such declaration shall be in a form prescribed by the department. One copy shall be retained by the person bringing in the birds, mammals, fish, reptiles, or amphibia while they are in his possession, one copy shall be deposited at the point of entry with any state or federal agency designated by the department, and one copy mailed

to the department within twenty-four (24) hours after entering the state.

Birds, mammals, fish, reptiles, or amphibia legally taken and legally possessed outside of this state may be imported into this state and possessed without such a declaration if the shipment is handled by a common carrier under a bill of lading or as supplies carried into this state by common carriers for use as food for the passengers.

The commission shall not modify the provisions of this section by any regulation which would prohibit the importation of lawfully killed migratory game birds taken in any other state or country and transported into this state pursuant to the migratory bird regulations adopted annually by the Secretary of the Interior.

SEC. 2. Section 12157.5 is added to the Fish and Game Code, to read:

12157.5. The judge before whom any person is tried and convicted of violating Sections 2004 and 2016 and, at the same proceeding, is also tried and convicted of violating Section 2001 or 2005 may, in his discretion, order the forfeiture of any motor vehicle or snowmobile used in committing one or more of the offenses charged. Any vehicle so forfeited shall be sold or destroyed by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund, except that any valid liens on the forfeited property shall first be paid from proceeds of the sale unless the lienholder is a conspirator. For purposes of this section, forfeiture of bail or a plea of nolo contendere shall constitute a conviction.

CHAPTER 1007

An act to amend Section 3248 of the Civil Code, to amend Section 710 of the Code of Civil Procedure, to repeal Section 15702.1 of the Government Code, to amend Sections 17035, 17204.7, 18403, 18415, 18433, 18435, 18491, 18493, 18551.1, 18556, 18588, 18681, 18681.1, 18802.8, 18815, 18816.5, 18820, 18825, 19053.1, 19062.13, 19063, and 19409 of, to amend the heading of Article 1 (commencing with Section 18801) of Chapter 19 of Part 10 of Division 2 of, to add Sections 18801.5 and 18806 to, to repeal Sections 18413, 18414, 18414.5, 18681.5, 18685.01, 18685.03, 18685.1, 18685.2, 18685.3, 18685.4, 18685.5, 18685.7, 18806, 18807, 18808, 18809, 18810, 18810.5, 18811, 18812, 18813, 18814, 18816, 18822, 18823, 18824, 18826, 19410, and 19411 of, the Revenue and Taxation Code, and to amend Sections 320.5, 1110, 1585, 1585.5, and 1735 of, to add Division 6 (commencing with Section 13000) to, and to repeal Article 7 (commencing with Section 1891) of Chapter 7 of Part 1 of Division 1 of, the Unemployment Insurance Code, relating to taxation.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Section 3248 of the Civil Code is amended to read:

3248. To be approved the payment bond shall be executed by either two or more good and sufficient sureties or by a corporate surety and shall satisfy all of the following requirements:

(a) Be in a sum not less than that prescribed in the following paragraph which is applicable to the total amount payable:

(1) One-half of the total amount payable by the terms of the contract when the total amount payable does not equal or exceed five million dollars ($5,000,000).

(2) One-fourth of the total amount payable by the terms of the contract when the total amount payable is not less than five million dollars ($5,000,000) and does not exceed ten million dollars ($10,000,000).

(3) If the total amount payable by the terms of the contract exceeds ten million dollars ($10,000,000), a payment bond in the sum of two million five hundred thousand dollars ($2,500,000) is sufficient.

(b) Provide that if the original contractor or his subcontractor fails to pay any of the persons named in Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor that the surety or sureties will pay for the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court. The original contractor may require of his subcontractors a bond to indemnify the original contractor for any loss sustained by the original contractor because of any default by his subcontractors under this section.

(c) By its terms inure to the benefit of any of the persons named in Section 3181 so as to give a right of action to such persons or their assigns in any suit brought upon the bond.

SEC. 2. Section 710 of the Code of Civil Procedure is amended to read:

710. (a) Whenever a judgment for the payment of money is rendered by any court of this state against a defendant to whom money is owing and unpaid by this state or by any county, city and county, city or municipality, quasi-municipality, district or public corporation, the judgment creditor may file a duly authenticated abstract or transcript of such judgment together with an affidavit stating the exact amount then due, owing and unpaid thereon and

that he desires to avail himself of the provisions of this section in the manner as follows:

1. If such money is owing and unpaid by this state to such judgment debtor, said judgment creditor shall file said abstract or transcript and affidavit with the state department, board, office or commission owing such money to said judgment debtor prior to the time such state department, board, office or commission presents the claim of such judgment debtor therefor to the State Controller. Said state department, board, office or commission in presenting such claim of such judgment debtor to said State Controller shall note thereunder the fact of the filing of such abstract or transcript and affidavit and state the amount unpaid on said judgment as shown by said affidavit and shall also note any amounts advanced to the judgment debtor by, or which the judgment debtor owes to, the State of California by reason of advances for expenses or for any other purpose. Thereupon the State Controller, to discharge such claim of such judgment debtor, shall pay into the court which issued such abstract or transcript by his warrant or check payable to said court the whole or such portion of the amount due such judgment debtor on such claim, after deducting from such claim an amount sufficient to reimburse the state department, board, office or commission for any amounts advanced to said judgment debtor or by him owed to the State of California, as will satisfy in full or to the greatest extent the amount unpaid on said judgment and the balance thereof, if any, to the judgment debtor.

2. If such money is owing and unpaid to such judgment debtor by any county, city and county, city or municipality, quasi-municipality, district or public corporation, said judgment creditor shall file said abstract or transcript and affidavit with the auditor of such county, city and county, city or municipality, quasi-municipality, district or public corporation (and in case there be no auditor then with the official whose duty corresponds to that of auditor). Thereupon said auditor (or other official) to discharge such claim of such judgment debtor shall pay into the court which issued such abstract or transcript by his warrant or check payable to said court the whole or such portion of the amount due on such claim of such judgment debtor as will satisfy in full or to the greatest extent the amount unpaid on said judgment and the balance thereof, if any, to the judgment debtor.

(b) The judgment creditor upon filing such abstract or transcript and affidavit shall pay a fee of six dollars ($6) to the person or agency with whom the same is filed.

(c) Whenever a court receives any money hereunder, it shall pay as much thereof as is not exempt from execution under this code to the judgment creditor and the balance thereof, if any, to the judgment debtor. The procedure for determining the claim of exemption shall be governed by the procedure set forth in Section 690.50 of this code, and the court rendering the judgment shall be considered the levying officer for the purpose of that section.

(d) In the event the moneys owing to a judgment debtor by any governmental agency mentioned in this section are owing by reason of an award made in a condemnation proceeding brought by the governmental agency, such governmental agency may pay the amount of the award to the clerk of the court in which such condemnation proceeding was tried, and shall file therewith the abstract or transcript of judgment and the affidavit filed with it by the judgment creditor. Such payment into court shall constitute payment of the condemnation award within the meaning of Section 1268.010. Upon such payment into court and the filing with the county clerk of such abstract or transcript of judgment and affidavit, the county clerk shall notify by mail, through their attorneys, if any, all parties interested in said award of the time and place at which the court which tried the condemnation proceeding will determine the conflicting claims to said award. At said time and place the court shall make such determination and order the distribution of the money held by the county clerk in accordance therewith.

(e) The judgment creditor may state in the affidavit any fact or facts tending to establish the identity of the judgment debtor. No public officer or employee shall be liable for failure to perform any duty imposed by this section unless sufficient information is furnished by the abstract or transcript together with the affidavit to enable him in the exercise of reasonable diligence to ascertain such identity therefrom and from the papers and records on file in the office in which he works. The word "office" as used herein does not include any branch or subordinate office located in a different city.

(f) Nothing in this section shall authorize the filing of any abstract or transcript and affidavit against any overpayment of tax, penalty or interest, or interest allowable with respect to such overpayment, under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code or under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(g) Any fees received by a state agency under this section shall be deposited to the credit of the fund from which payments were, or would be, made on account of a garnishment under this section.

(h) This section shall not be construed to authorize the withholding of earnings of a public officer or employee. Except as otherwise expressly provided by law, the earnings of a public officer or employee may be withheld for payment of a judgment only pursuant to Chapter 2.5 (commencing with Section 723.010).

SEC. 3. Section 15702.1 of the Government Code is repealed.

SEC. 4. Section 17035 of the Revenue and Taxation Code is amended to read:

17035. The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of Section 18805.

SEC. 5. Section 17204.7 of the Revenue and Taxation Code is amended to read:

17204.7. The tax deducted and withheld under Section 18805 of

this code and Section 13020 of the Unemployment Insurance Code shall not be allowed as a deduction either to the employer or to the recipient of the income in computing taxable income under this part.

SEC. 6. Section 18403 of the Revenue and Taxation Code is amended to read:

18403. If the taxpayer is unable to make his own return (including the return required by Section 18415), the return shall be made by a duly authorized agent or by the guardian or conservator or other person charged with the care of the person or property of the taxpayer.

SEC. 7. Section 18413 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 18414 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 18414.5 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 18415 of the Revenue and Taxation Code is amended to read:

18415. Except as provided in subdivision (c), for taxable years beginning on and after January 1, 1973, every individual shall make a declaration of estimated tax for the lesser of the amounts stated in subdivision (a) or (b).

(a) The tax imposed under Section 17041 or 17048 for the preceding taxable year, minus the sum of any credits against the tax provided by this part.

(b) A tax computed under Section 17041 or 17048 upon the estimated income for the taxable year minus the sum of any credits against the tax provided by this part.

(c) No declaration is required if:

(1) The tax determined under subdivision (a) or subdivision (b) is less than one hundred dollars ($100) except in the case of a separate return filed by a married person the amount shall be less than fifty dollars ($50); or

(2) Eighty percent or more of the tax imposed under Section 17041 or 17048 for the preceding taxable year minus the sum of any credits against the tax provided by this part, except the credit allowed under Section 18551.1 for tax withheld on wages pursuant to Section 13020 of the Unemployment Insurance Code, was paid, or 80 percent or more of the estimated tax for the current taxable year will be paid, by withholding of tax on wages as provided by Section 13020 of the Unemployment Insurance Code; or

(3) Eighty percent or more of the adjusted gross income for the taxable year consists of wages subject to withholding pursuant to Section 13020 of the Unemployment Insurance Code.

(d) The declaration provided by this section shall contain such pertinent information as the Franchise Tax Board may by forms or regulations prescribe.

(e) An individual may make amendments of a declaration filed during the taxable year under regulations prescribed by the

Franchise Tax Board.

(f) If on or before January 31 (or March 1, in the case of an individual referred to in paragraph (2) of subdivision (b) of Section 18435, relating to income from farming or fishing) of the succeeding taxable year the taxpayer files a return, for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the Franchise Tax Board—

(1) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(2) If the tax shown on the return (reduced by the sum of the credits against tax provided by subdivision (b) of this section) is greater than the estimated tax shown in a declaration previously made, or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by subdivision (e) to be filed on or before January 15.

In the application of this subdivision, in the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the 15th or last day of the months specified in this subdivision, the 15th or last day of the months which correspond thereto.

(g) An individual with a taxable year of less than 12 months shall make a declaration in accordance with regulations prescribed by the Franchise Tax Board.

(h) The provisions of this section shall not apply to an estate or trust.

(i) The provisions of this section shall apply to a nonresident individual.

(j) In the case of a husband and wife, a single declaration of estimated tax under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either the husband or the wife is a nonresident, if they are separated under a decree of divorce or of separate maintenance or a final judgment of dissolution of marriage, or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

SEC. 11. Section 18433 of the Revenue and Taxation Code is amended to read:

18433. (a) The Franchise Tax Board may grant a reasonable extension of time for filing any return, declaration, statement or other document required by this part. Except for taxpayers residing or traveling abroad, requests for extensions must be made on or before the due date for filing the return, declaration, statement, or other document, and no such extension or extensions shall be for more than six months. In the case of taxpayers residing or traveling

abroad, returns shall be filed no later than the 15th day of the sixth month following the close of the taxable year unless a request for extension has been made on or before the above date.

(b) A reasonable extension for payment of tax required by this part may be granted by the Franchise Tax Board whenever in its judgment good cause exists.

SEC. 12. Section 18435 of the Revenue and Taxation Code is amended to read:

18435. (a) (1) Declarations of estimated tax required to be filed under Section 18415 from individuals regarded as neither farmers nor fishermen shall be filed on or before April 15 of the taxable year, except that if the requirements of Section 18415 are first met—

(A) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(B) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(C) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(2) Declarations of estimated tax required by Section 18415 from individuals whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year, or whose gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least two-thirds of the total gross income from all sources shown on such return, may, in lieu of the time prescribed in paragraph (1), be filed at any time on or before January 15 of the succeeding taxable year.

(b) An amendment of a declaration may be filed in any interval between installment dates prescribed for that taxable year, but only one amendment may be filed in each such interval.

(c) The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Franchise Tax Board.

(e) In the application of this section to the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

SEC. 13. Section 18491 of the Revenue and Taxation Code is amended to read:

18491. Section 13021 of the Unemployment Insurance Code sets forth requirements for the filing of returns and payment of tax by every employer required to withhold any personal income tax on wages.

SEC. 14. Section 18493 of the Revenue and Taxation Code is amended to read:

18493. The Franchise Tax Board is authorized to require such information with respect to persons subject to the taxes imposed by

Article 1 (commencing with Section 18801) of Chapter 19 of this part (relating to tax withheld at source) as is necessary or helpful in securing proper identification of such persons.

SEC. 15. Section 18551.1 of the Revenue and Taxation Code is amended to read:

18551.1. (a) For purposes of this part, the amount withheld under Section 18805 of this code and Section 13020 of the Unemployment Insurance Code during any calendar year shall be allowed to the recipient of the income as a credit against the tax imposed by this part as a credit for the taxable year with respect to which such amount was withheld.

(b) For purposes of Section 19053, any tax actually deducted and withheld during any calendar year under Section 18805 of this code and Section 13020 of the Unemployment Insurance Code shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of the taxable year with respect to which such tax is allowable as a credit under subdivision (a). For purposes of Sections 19053 and 19062, any amount paid as estimated income tax under Section 18415 of this code or Section 13043 of the Unemployment Insurance Code for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under Section 18401 for such taxable year (determined without regard to any extension of time for filing such return).

(c) Notwithstanding subdivision (b), for purposes of Section 19053 with respect to any tax deducted and withheld under Section 18805 of this code or Section 13020 of the Unemployment Insurance Code—

(1) If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such succeeding calendar year; and

(2) If a tax with respect to an amount paid during any period ending with or within a calendar year is paid before April 15 of the succeeding calendar year, such tax shall be considered paid on April 15 of such succeeding calendar year.

(d) If any overpayment of income tax is, in accordance with Section 19051.1, claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year (whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year in which the overpayment arises.

SEC. 16. Section 18556 of the Revenue and Taxation Code is amended to read:

18556. (a) The amount of estimated tax for which a declaration is required under Section 18415 shall be paid as follows:

(1) If the declaration is filed on or before April 15 of the taxable

year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year.

(2) If the declaration is filed after April 15 and not after June 15 of the taxable year, and is not required by paragraph (1) of subdivision (b) of Section 18435 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year.

(3) If the declaration is filed after June 15 and not after September 15 of the taxable year, and is not required by paragraph (1) of subdivision (b) of Section 18435 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second on January 15 of the succeeding taxable year.

(4) If the declaration is filed after September 15 of the taxable year, and is not required by paragraph (1) of subdivision (b) of Section 18435 to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(5) If the declaration is filed after the time prescribed in paragraph (1) of subdivision (b) of Section 18435 (including cases in which an extension of time for filing the declaration has been granted), paragraphs (2), (3), and (4) of this subdivision shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in paragraph (1) of subdivision (b) of Section 18435, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

(b) If an individual referred to in paragraph (2) of subdivision (b) of Section 18435 (relating to income from farming or fishing) makes a declaration of estimated tax after September 15 of the taxable year and on or before January 15 of the succeeding taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(c) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect the increase or decrease, as the case may be, in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(d) The application of this section to taxable years of less than 12

months shall be in accordance with regulations prescribed by the Franchise Tax Board.

(e) In the application of this section to the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(f) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

SEC. 17. Section 18588 of the Revenue and Taxation Code is amended to read:

18588. (a) For the purposes of Sections 18586, 18586.1, and 18587, a return of tax imposed by this part except a return of tax imposed by Article 1 (commencing with Section 18801) of Chapter 19 (relating to withholding at source), filed before the last day prescribed by law for filing, shall be considered as filed on that day. For purposes of Section 19053, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day.

(b) For purposes of this section, if a return of tax imposed by Article 1 (commencing with Section 18801) of Chapter 19 (relating to withholding at source) or a return of tax imposed by Section 13020 of the Unemployment Insurance Code (relating to withholding tax on wages), for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

SEC. 18. Section 18681 of the Revenue and Taxation Code is amended to read:

18681. (a) If any taxpayer fails to make and file a return required by this part on or before the due date of the return or the due date as extended by the Franchise Tax Board, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, 5 percent of the tax shall be added to the tax for each month or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed 25 percent of the tax. The penalty so added to the tax shall be due and payable upon notice and demand from the Franchise Tax Board.

(b) For purposes of subdivision (a), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(c) This section shall not apply to any failure to file a declaration of estimated tax required by Section 18415.

SEC. 19. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. In the case of each failure—

(a) To file a statement of the aggregate amount of payments to another person required by Section 18802 (relating to information

at source), Section 18803 (relating to payments of corporate dividends), or Section 18802.1 (relating to payments of patronage dividends), or

(b) To make a return required by Section 18802.7 (relating to reporting information in connection with certain options) with respect to a transfer of stock or a transfer of legal title to stock, or

(c) To make a return required by Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance) with respect to a group-term life insurance on the life of an employee, on the date prescribed therefor (determined with regard to any extension of time for filing), or

(d) To make a return and furnish a statement required by Section 18802.8 (relating to reporting requirements of certain fishing boat operators),

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the person or employer failing to file a statement referred to in subdivision (a) or a return referred to in subdivision (b) or (c), one dollar ($1) for each such failure, but the total amount imposed on the delinquent person or employer for all such failures during any calendar year shall not exceed one thousand dollars ($1,000).

SEC. 20. Section 18681.5 of the Revenue and Taxation Code is repealed.

SEC. 21. Section 18685.01 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 18685.03 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 18685.1 of the Revenue and Taxation Code is repealed.

SEC. 24. Section 18685.2 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 18685.3 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 18685.4 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 18685.5 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 18685.7 of the Revenue and Taxation Code is repealed.

SEC. 29. The heading of Article 1 (commencing with Section 18801) of Chapter 19 of Part 10 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 1. Information and Withholding Tax at Source

SEC. 30. Section 18801.5 is added to the Revenue and Taxation Code, to read:

18801.5. Division 6 (commencing with Section 13000) of the

Unemployment Insurance Code sets forth provisions administered by the Employment Development Department relating to the reporting, collection, refunding to the employer, and enforcement of taxes required to be withheld from wages paid by employers.

SEC. 31. Section 18802.8 of the Revenue and Taxation Code is amended to read:

18802.8. (a) The operator of a boat on which one or more individuals, during a calendar year, perform services described in subdivision (o) of Section 13009 of the Unemployment Insurance Code shall submit to the Franchise Tax Board (at such time, and in such manner and form, as the Franchise Tax Board shall by regulations prescribe) information respecting—

(1) The identity of each individual performing such services;

(2) The percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

(3) If such individual receives his share in kind, the type and weight of such share, together with such other information as the Franchise Tax Board may prescribe by regulations reasonably necessary to determine the value of such shares; and

(4) If such individual receives a share of the proceeds of such catches, the amount so received.

(b) Every person making a return under subdivision (a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

SEC. 32. Section 18806 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 18806 is added to the Revenue and Taxation Code, to read:

18806. The Franchise Tax Board shall annually (or more often if necessary) prepare and make available to the Employment Development Department, wage withholding tables which shall be used by every employer making payment of any wages to a resident employee for services performed either within or without this state; or to a nonresident employee for services performed in this state, to deduct and withhold from such wages for each payroll period, a tax computed in such a manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under this part resulting from the inclusion in the gross income of the employee the wages which were subject to withholding.

SEC. 34. Section 18807 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 18808 of the Revenue and Taxation Code is

repealed.

SEC. 36. Section 18809 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 18810 of the Revenue and Taxation Code is repealed.

SEC. 38. Section 18810.5 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 18811 of the Revenue and Taxation Code is repealed.

SEC. 40. Section 18812 of the Revenue and Taxation Code is repealed.

SEC. 41. Section 18813 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 18814 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 18815 of the Revenue and Taxation Code is amended to read:

18815. (a) Every person required to deduct and withhold any tax is hereby made liable for such tax, to the extent provided by this section and, insofar as they are not inconsistent with the provisions of this article, all the provisions of this part relating to penalties, interest, assessment, and collections shall apply to persons subject to the provisions of this part, and for these purposes any amount required to be deducted and paid to the Franchise Tax Board under Section 18805 shall be considered the tax of the person. Any person who fails to withhold from any payments any amount required to be withheld under Section 18805 is liable for the amount withheld or the amount of taxes due from the taxpayer to whom the payments are made but not in excess of the amount required to be withheld, whichever is more, unless it is shown that the failure to withhold is due to reasonable cause.

(b) Whenever any person has withheld any amount pursuant to this article, the amount so withheld shall be held to be a special fund in trust for the State of California.

(c) The amount of tax required to be deducted and withheld under Section 18805 shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes imposed by this part.

SEC. 44. Section 18816 of the Revenue and Taxation Code is repealed.

SEC. 45. Section 18816.5 of the Revenue and Taxation Code is amended to read:

18816.5. (a) Whenever any payer required to deduct and withhold tax under Section 18805 sells, transfers, dissolves, withdraws, terminates or otherwise disposes of the business or a substantial portion of its assets, the successors (including assigns, purchasers, heirs, distributees, beneficiaries or other persons acquiring either a substantial portion of the assets or the business)

shall withhold in trust a sufficient part of the purchase price or set aside in trust money or property to cover the amount of the taxes required to be withheld and any interest or penalties with respect thereto which are due or unpaid by the payer. The money, property or portion of the purchase price shall be held in trust until a certificate is issued by the Franchise Tax Board stating that no amount of such tax, interest or penalties are due or unpaid from the payer.

(b) Upon written request by the successor, the Franchise Tax Board shall, within 60 days, issue a certificate or a statement showing the amount of tax, interest and penalty due from the payer. Except as provided in subdivision (c), failure to issue a certificate or statement within the 60-day period shall be deemed equivalent to the issuance of a certificate stating that no tax, interest or penalties are due. If the Franchise Tax Board issues a statement showing that taxes, interest and penalties are claimed to be due, the amount stated therein (not in excess of the fair market value of the assets or business acquired) shall be paid by the successor to the Franchise Tax Board within (1) 30 days after the statement is mailed or delivered to the successor or (2) on the day the business or assets are acquired, whichever is the latest event. If a request for a certificate is not made by the successor, the amount of tax, interest or penalties due or unpaid by the payer shall be paid by the successor to the Franchise Tax Board on the day the business or assets are acquired. If a successor fails to pay the amount required by this section by the time prescribed in this subdivision, a penalty of 10 percent of the amount payable shall be levied.

(c) The issuance of a certificate stating that no taxes, interest and penalties are due, or the failure to issue such certificate or statement within the period of 60 days shall not release the payer from liability on account of any taxes, interest, and penalties then or thereafter determined to be due from him, but shall release the successor from any further liability on account of any such taxes, interest and penalties. Payment by the successor pursuant to subdivision (b) shall not release the payer from liability except to the extent of the amount paid by the successor.

(d) Any successor that fails to withhold money or other property or fails to pay the amount or value of the property withheld as provided in this section shall be personally liable for the payment of the taxes, interest and penalties due from the payer up to but not exceeding the fair market value of the assets or business acquired. The Franchise Tax Board shall have all of the remedies for collection against any successor that acquires the business or substantially all the assets thereof of an payer as provided by this part against any payer liable for taxes, interest and penalties. The time within which the obligation may be enforced against the successor acquiring the business or substantially all the assets thereof of an payer shall commence from (1) the date the successor acquires the assets or business, (2) the date an assessment against the successor payer

becomes final, or (3) 31 days after the statement is mailed or delivered to the successor if a certificate is requested by the successor as provided in subdivision (b), whichever of the three events is later.

SEC. 46. Section 18820 of the Revenue and Taxation Code is amended to read:

18820. Any taxpayer from whom a tax is collected by withholding under this article or under Section 13020 of the Unemployment Insurance Code is entitled to the remedies set forth in Articles 1 (commencing with Section 19051) and 2 (commencing with Section 19081) of Chapter 20.

SEC. 47. Section 18822 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 18823 of the Revenue and Taxation Code is repealed.

SEC. 49. Section 18824 of the Revenue and Taxation Code is repealed.

SEC. 50. Section 18825 of the Revenue and Taxation Code is amended to read:

18825. (a) For purposes of Sections 18805 and 18815, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the State of California in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

(b) If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this part to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the State of California in a sum equal to the taxes (together with interest) which are not paid over to the State of California by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

(c) Any amounts paid to the State of California pursuant to this section shall be credited against the liability of the employer.

SEC. 51. Section 18826 of the Revenue and Taxation Code is repealed.

SEC. 52. Section 19053.1 of the Revenue and Taxation Code is amended to read:

19053.1. For purposes of Section 19053, a return filed within four years from the last day prescribed for filing the return showing a credit for (a) tax withheld under Section 18805 of this code or

Section 13020 of the Unemployment Insurance Code or (b) estimated tax paid under Section 18556 in excess of the tax due, shall be considered a claim for refund of such excess if the amount thereof is more than one dollar ($1). No refund of tax withheld or estimated tax paid shall be allowed to an employee or taxpayer who fails to file a return for the taxable year in respect of which the tax withheld or estimated tax was allowable as a credit.

SEC. 53. Section 19062.13 of the Revenue and Taxation Code is amended to read:

19062.13. Any action of the Franchise Tax Board in refunding the excess of tax withheld under Section 18805 or estimated tax paid under Section 18556 or any action of the Employment Development Department in refunding to the employer the excess tax withheld under Section 13020 of the Unemployment Insurance Code shall not constitute a determination of the correctness of the return of the taxpayer for purposes of this part.

SEC. 54. Section 19063 of the Revenue and Taxation Code is amended to read:

19063. In the case of an overpayment of tax imposed by Section 18805, refund or credit shall be made to the employer or to the withholding agent, as the case may be, only to the extent that the amount of such overpayment was not deducted and withheld by the employer or withholding agent. No interest shall be allowed on such overpayment.

SEC. 55. Section 19409 of the Revenue and Taxation Code is amended to read:

19409. Any person who, with or without intent to evade, fails to withhold, pursuant to Section 18805, or pay over any tax withheld, shall be guilty of a misdemeanor, and, upon conviction be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for not more than one year, or both, at the discretion of the court.

SEC. 56. Section 19410 of the Revenue and Taxation Code is repealed.

SEC. 57. Section 19411 of the Revenue and Taxation Code is repealed.

SEC. 58. Section 320.5 of the Unemployment Insurance Code is amended to read:

320.5. The director may by authorized regulations prescribe the information required to be reported to the department by employing units under this division and employers subject to withholding tax under Division 6 (commencing with Section 13000) in order to make reports required by the Secretary of Labor, to provide information necessary to administer this code, to estimate unemployment rates or to make other estimates required for the purpose of dispensing or withholding money payments under the Welfare Reform Act of 1971, the Employment Security Amendments of 1970 (Public Law 91-373), the Emergency Unemployment Compensation Act of 1971 (Public Law 92-224), or the Emergency Employment Act of 1971 (Public Law 92-54), and to make such other

reports or estimates as may be required by any other state or federal law. The authorized regulations of the director may include requirements for the reporting of employment, unemployment, hours, wages, earnings, the location and nature of the industrial, business, or other activity of each establishment for the conduct of business, performance of services, or industrial operations, and such other requirements as are necessary to comply with this section.

SEC. 59. Section 1110 of the Unemployment Insurance Code is amended to read:

1110. (a) Employer contributions required under Sections 976 and 976.5 and, except as provided by subdivision (b) of this section, worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of such month.

(b) Worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each first and second calendar month of each calendar quarter and shall become delinquent if not paid on or before the 15th day of such month. This subdivision shall not apply to an employer for any calendar month if both of the following conditions exist:

(1) The total amount of worker contributions required to be withheld by that employer for that month does not exceed one hundred dollars ($100).

(2) The income tax required to be withheld by Section 13020 for that month does not exceed two hundred fifty dollars ($250).

SEC. 60. Section 1585 of the Unemployment Insurance Code is amended to read:

1585. There is in the State Treasury a special fund known as the Employment Development Department Contingent Fund. The Employment Development Department Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division, except as provided in Article 6 (commencing with Section 821) of Chapter 3 and Article 7 (commencing with Section 841) of Chapter 3.

(b) All penalties collected under this division, except as provided in Sections 1958 and 3654.2, and in Article 6 (commencing with Section 821) of Chapter 3 and Article 7 (commencing with Section 841) of Chapter 3.

(c) Notwithstanding any other provision of law, all penalties and interest collected by the department pursuant to Division 6 (commencing with Section 13000) relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.

SEC. 61. Section 1585.5 of the Unemployment Insurance Code is amended to read:

1585.5. The director shall estimate the amount of penalties and interest collected by the department pursuant to Division 6 (commencing with Section 13000) relating to the withholding of personal income tax and shall transfer such amount to the Personal Income Tax Fund on a quarterly basis.

SEC. 62. Section 1735 of the Unemployment Insurance Code is amended to read:

1735. Any officer, major stockholder, or other person, having charge of the affairs of a corporate or association employing unit, who willfully fails to pay contributions required by this division or withholdings required by Division 6 (commencing with Section 13000) on the date on which they become delinquent, shall be personally liable for the amount of the contributions, withholdings, penalties, and interest due and unpaid by such employing unit. The director may assess such officer, stockholder, or other person for the amount of such contributions, withholdings, penalties, and interest. The provisions of Article 8 (commencing with Section 1126) and Article 9 (commencing with Section 1176) of Chapter 4 of Part 1 apply to assessments made pursuant to this section. Sections 1221, 1222, 1223, and 1224 shall apply to assessments made pursuant to this section. With respect to such officer, stockholder, or other person, the director shall have all the collection remedies set forth in this chapter.

SEC. 63. Article 7 (commencing with Section 1891) of Chapter 7 of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 64. Division 6 (commencing with Section 13000) is added to the Unemployment Insurance Code, to read:

DIVISION 6. WITHHOLDING TAX ON WAGES

CHAPTER 1. GENERAL PROVISIONS

13000. The department shall have the powers and duties necessary to administer the reporting, collection, refunding to the employer, and enforcement of taxes required to be withheld by employers pursuant to Section 13020, except as otherwise provided by this division.

13001. The definitions set forth in Sections 126, 127, 129, 133, 134, and 144 shall apply to this division.

13002. The following provisions of this code shall apply to any amount required to be deducted and paid to the department under this division:

(1) Sections 301, 305, 306, 310, 311, 312, 317, and 318, relating to general administrative powers of the department.

(2) Sections 403 to 413, inclusive, Section 1336, and Chapter 8 (commencing with Section 1951) of Part 1 of Division 1, relating to

appeals and hearing procedures.

(3) Sections 1110.6, 1111, 1112, 1113, 1113.1, 1115, and 1116, relating to the making of returns or the payment of reported contributions.

(4) Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of Division 1, relating to assessments.

(5) Article 9 (commencing with Section 1176), except Section 1176, of Chapter 4 of Part 1 of Division 1, relating to refunds and overpayments.

(6) Article 10 (commencing with Section 1206) of Chapter 4 of Part 1 of Division 1, relating to notice.

(7) Article 11 (commencing with Section 1221) of Chapter 4 of Part 1 of Division 1, relating to administrative appellate review.

(8) Article 12 (commencing with Section 1241) of Chapter 4 of Part 1 of Division 1, relating to judicial review.

(9) Chapter 7 (commencing with Section 1701) of Part 1 of Division 1, relating to collections.

13003. Except where the context otherwise requires, the definitions set forth in this chapter, and in addition the definitions and provisions of the Personal Income Tax Law referred to and hereby incorporated by reference as set forth in the following provisions of the Revenue and Taxation Code, shall apply to and govern the construction of this division:

(1) "Corporation" as defined by Section 17009.

(2) "Fiduciary" as defined by Section 17006.

(3) "Fiscal year" as defined by Section 17011.

(4) "Foreign country" as defined by Section 17019.

(5) "Franchise Tax Board" as defined by Section 17003.

(6) "Husband" and "wife" as defined by Section 17021.

(7) "Individual" as defined by Section 17005.

(8) "Military or naval forces" as defined by Section 17002.

(9) "Nonresident" as defined by Section 17015.

(10) "Partnership" as defined by Section 17008.

(11) "Person" as defined by Section 17007.

(12) "Resident" as defined by Sections 17014 and 17016.

(13) "State" as defined by Section 17018.

(14) "Taxable year" as defined by Section 17010.

(15) "Taxpayer" as defined by Section 17004.

(16) "Trade or business" as defined by Section 17020.

(17) "United States" as defined by Section 17017.

(18) Section 17202, relating to trade or business expenses.

(19) Sections 17202.2 and 17202.3, relating to the certified trainee expense deduction.

(20) Sections 17240 and 17241, relating to deductions for retirement savings.

(21) Section 17266, relating to moving expenses.

(22) Section 17301, relating to income of a nonresident taxpayer.

(23) Sections 17321 to 17324, inclusive, 17327, 17335 to 17343, inclusive, 17346, 17347, 17348, and 17440, relating to distributions of property by a corporation to a shareholder.

(24) Chapter 5 (commencing with Section 17501) of Part 10 of Division 2, relating to deferred compensation.

(25) Section 17921, relating to partners and partnerships.

(26) Sections 17951, 17953, and 17954, relating to gross income of nonresidents.

(27) Section 18470, relating to postponement of the time for certain acts by individuals in or in support of the armed forces.

(28) Article 2 (commencing with Section 19281) of Chapter 21 of Part 10 of Division 2, except Section 19289.5, relating to disclosure of information. For this purpose "Franchise Tax Board" as used therein shall mean the Employment Development Department in respect to information obtained in the administration of this division.

13004. "Employee" means a resident or a nonresident individual who receives remuneration for services performed within this state and includes an officer, employee, or elected official of the United States, a state, territory, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing. "Employee" also includes an officer of a corporation, and any individual included as an "employee" pursuant to Section 17027 of the Revenue and Taxation Code, relating to full-time life insurance salespersons.

Whether an individual provides equipment in the performance of services for remuneration shall not be considered in a determination of whether that individual is an employee.

13005. (a) "Employer" means any individual, person, corporation, association or partnership, or any agent thereof, doing business in this state, deriving income from sources within this state, or in any manner whatsoever subject to the laws of this state, the State of California or any political subdivision or agency thereof, including the Regents of the University of California, any city organized under a freeholders' charter, or any political body not a subdivision or agency of the state, and any person, officer, employee, department, or agency thereof, making payment of wages to employees for services performed within this state, except as provided in subdivision (b).

(b) If the employer, as defined in subdivision (a), for whom the employee performs or performed the service does not have control of the payment of wages for such services, "employer" (except for purposes of Section 13009) means the person having control of the payment of such wages, whether or not the person having control of the payment of such wages is subject to the jurisdiction of the laws of this state.

13006. "Gross income" means all compensation for services including fees, commissions, and similar items, except as otherwise provided by this division. "Gross income" shall specifically include those items relating to such compensation specified by Article 2 (commencing with Section 17081) of, and shall specifically exclude those items relating to such compensation specified by Article 3 (commencing with Section 17131) of, Chapter 3 of Part 10 of Division

2 of the Revenue and Taxation Code. "Gross income" does not include any amounts received by a taxpayer pursuant to Section 11034 of the Government Code.

13007. "Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

13008. "Payroll period" means a period for which a payment of wages is ordinarily made to the employee by his or her employer.

13009. "Wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including all remuneration paid to a nonresident employee for services performed in this state, and the cash value of all remuneration paid in any medium other than cash, except as provided by this section. "Wages" includes tips received by an employee in the course of his or her employment. Such wages shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to Section 13055 or, if no statement including such tips is so furnished, at the time received.

"Wages" shall not include remuneration paid under any of the following conditions:

(a) For agricultural labor, as defined in subdivision (g) of Section 3121 of the Internal Revenue Code of 1954.

(b) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority.

(c) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if either of the following conditions is met:

(1) On each of some 24 days during such quarter, such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business.

(2) Such individual was regularly employed, as determined under paragraph (1), by such employer in the performance of such service during the preceding calendar quarter.

(d) For services by a citizen or resident of the United States for a foreign government or an international organization.

(e) For such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the department.

(f) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

(g) (1) For services performed by an individual under the age of 18 in delivery or distribution of newspapers or shopping news, not

including delivery or distribution to any point for subsequent delivery or distribution.

(2) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her whether or not he or she is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back.

(h) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash.

(i) To, or on behalf of, an employee or his or her beneficiary under any of the following situations:

(1) From or to a trust described in Section 17501 of the Revenue and Taxation Code which is exempt from tax under Section 17631 of such code at the time of such payment, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust.

(2) Under or to an annuity plan which, at the time of such payment, is a plan described in Section 17511 of the Revenue and Taxation Code.

(3) Under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in Section 17526 of the Revenue and Taxation Code.

(4) For a payment described in Section 17240 or 17241 of the Revenue and Taxation Code if, at the time of such payment, it is reasonable to believe that the employee will be entitled to a deduction under such section for payment.

(j) To a master, officer, or any other seaman who is a member of a crew on a vessel engaged in foreign, coastwise, intercoastal, interstate, or noncontiguous trade.

(k) Pursuant to any provision of law other than Section 5(c) or 6(1) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of such act.

(*l*) In the form of group-term life insurance on the life of an employee.

(m) To or on behalf of an employee, and to the extent that, at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under Section 17266 of the Revenue and Taxation Code.

(n) (1) As tips in any medium other than cash.

(2) As cash tips to an employee in any calendar month in the course of his or her employment by an employer, unless the amount of such cash tips is twenty dollars ($20) or more.

(o) For service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to

which all of the following apply:

(1) Such individual does not receive any cash remuneration, other than as provided in paragraph (2).

(2) Such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch.

(3) The amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life.

This subdivision shall apply only where the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

13010. "Withholding agent" means any person required to deduct and withhold any tax under the provisions of Section 13020.

13011. The department shall retain the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use of the Franchise Tax Board in the performance of the duties, powers, purposes, responsibilities, and jurisdiction of the Franchise Tax Board that were previously delegated by Section 15702.1 of the Government Code and that are vested in the department by Section 13000.

13013. All regulations heretofore adopted by the Franchise Tax Board pursuant to powers transferred to the department by this division and in effect immediately preceding the operative date of this division, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

13014. This division does not apply to the payment of interest obligations not taxable under this division.

13015. The department is authorized to require such information with respect to persons subject to the taxes imposed by this division as is necessary or helpful in securing proper identification of such persons.

13016. When necessary to make effective the provisions of this division, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

13017. Unless otherwise specifically provided, the provisions of any law effecting changes in withholding under this division shall begin in the manner set forth by Section 18806.5 of the Revenue and Taxation Code.

CHAPTER 2. WITHHOLDING AND PAYMENT OF TAX

13020. (a) Every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state,

shall deduct and withhold from such wages, except as provided in Sections 13025 and 13026, for each payroll period, a tax computed in such manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054 of the Revenue and Taxation Code, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code resulting from the inclusion in the gross income of the employee of the wages which were subject to withholding. The method of determining the amount to be withheld shall be prescribed by authorized regulations of the Franchise Tax Board pursuant to Section 18806 of the Revenue and Taxation Code.

(b) The department upon request may permit the use of accounting machines to calculate the proper amount to be deducted and withheld from such wages, if such calculation produces an amount substantially equivalent to the amount of tax required to be withheld under subdivision (a).

13021. (a) Every employer required to withhold any tax under Section 13020 shall for each calendar quarter, whether or not wages are paid in the quarter, file a withholding return in a form prescribed by the department, and pay over the taxes so required to be withheld.

Except as provided in subdivision (b) of this section, the employer shall file a withholding return and remit the total amount of income taxes withheld during the calendar quarter on or before the last day of the month following the close of the calendar quarter.

(b) Notwithstanding subdivision (a), the employer shall remit the total amount of income tax withheld during each first or second month of any calendar quarter, on or before the 15th day of the calendar month if either of the following conditions exists:

(1) The income tax withheld for that month is more than two hundred fifty dollars ($250).

(2) The worker contributions required by Section 984 for that month are more than one hundred dollars ($100).

(c) The department may, if it believes such action is necessary, require any employer to make the return required by this section and pay to it the tax deducted and withheld at any time, or from time to time.

13022. In determining the amount to be deducted and withheld under Section 13020, the wages may, at the election of the employer, be computed to the nearest dollar.

13023. The department may, by regulation, permit employers to estimate the wages which will be paid to any employee in any quarter of the calendar year, to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and to deduct and withhold upon any payment of wages to such employee, during such quarter such amount as may be necessary to adjust the amount

actually deducted and withheld upon the wages of such employee during such quarter to the amount that would be required to be deducted and withheld during such quarter if the payroll period of the employee were quarterly.

13024. The department may provide by authorized regulation, under such conditions and to such extent as it deems proper, for withholding in addition to that otherwise required under Section 13020 in cases in which the employer and employee agree to such additional withholding. Such additional withholding shall for all purposes be considered a tax required to be deducted and withheld under this division.

13025. In the case of remuneration paid in any medium other than cash for services performed by an individual as a retail salesperson for a person where the service performed by such individual for such person is ordinarily performed for remuneration solely by way of cash commission an employer shall not be required to deduct or withhold any tax under this division with respect to such remuneration, if such employer files with the department such information with respect to such remuneration as the department may prescribe by regulation.

13026. An employer shall not be required to deduct and withhold any tax under this division upon a payment of wages (except wages exempt from federal income tax but not exempt under this division) to an employee if there is in effect with respect to such payment a withholding exemption certificate, in such form and containing such other information as the department may prescribe, furnished to the employer by the employee certifying that the employee—

(a) Incurred no liability for federal income tax imposed under subtitle A of the Internal Revenue Code of 1954 for his or her preceding taxable year, and

(b) Anticipates that he or she will incur no liability for federal income tax imposed under subtitle A of the Internal Revenue Code of 1954 for his or her current taxable year.

13027. In the case of tips which constitute wages, subdivision (a) of Section 13020 shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to Section 13055, and only to the extent that the tax can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer. An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to Section 13055 to which paragraph (2) of subdivision (n) of Section 13009 is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under his or her control, even though at the time such statement is furnished the total amount of the tips

included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his or her employment by the employer is less than twenty dollars ($20). Such tax shall not at any time be deducted and withheld in any amount which exceeds the aggregate of such wages and funds.

13028. (a) For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division)—

(1) Any supplemental unemployment compensation benefit paid to an individual, and

(2) Any payment of an annuity to an individual, if at the time the payment is made a request that such annuity be subject to withholding under this division is in effect,

shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(b) (1) For purposes of subdivision (a), "supplemental unemployment compensation benefits" means amounts which are paid to an employee, pursuant to a plan to which the employer is a party, because of an employee's involuntary separation from employment (whether or not such separation is temporary), resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, but only to the extent such benefits are includable in the employee's gross income.

(2) For purposes of this section, "annuity" means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includable in the gross income of such individual.

(c) A request that an annuity be subject to withholding under this division shall be made by the payee in writing to the person making the annuity payments and shall be accompanied by a withholding exemption certificate, executed in accordance with authorized regulations prescribed by the department. Such a request may be terminated by furnishing to the person making the payments a written statement of termination which shall be treated as a withholding exemption certificate. Such a request or termination thereof need not be accepted by the person making the annuity payments unless the payee has also filed a similar request or termination thereof pursuant to subsection (o) of Section 3402 of the Internal Revenue Code of 1954.

13029. The department may by authorized regulations provide for withholding—

(a) From remuneration for services performed by an employee for his or her employer which (without regard to this section) does not constitute wages, and

(b) From any other type of payment with respect to which the department finds that withholding would be appropriate under the provisions of this division,

if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to such withholding. Such agreement shall be made

in such form and manner as the department may by authorized regulations provide. For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division) remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

13030. If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid. In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1st of such year, whichever is the later. In any case in which the period of time described, or the time prescribed in the preceding sentence in respect of any wages, is less than one week, the department may by authorized regulation permit an employer, in computing the tax required to be deducted and withheld, to use the excess of the aggregate of the wages paid to the employee during the calendar week over the withholding exemption allowed by Section 13020 for a weekly payroll period.

13031. If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than 31 consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages, but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

CHAPTER 3. WITHHOLDING EXEMPTIONS

13040. (a) An employer shall use the exemption certificate filed by the employee with the employer in such form and containing such information as the department may prescribe, for determining the number of withholding exemptions to be allowed in computing the tax required to be deducted and withheld under Section 13020. However, if the employer cannot determine the employee's marital status from the exemption certificate the employee shall be

considered unmarried.

(b) No withholding exemptions shall be allowed until the employee files a new withholding exemption certificate if the department finds that the withholding exemption certificate filed under this division does not properly reflect the number of exemptions allowable and so advises the employer in writing.

13041. The number and amount of withholding exemptions allowed shall be based upon the persons claimed in a withholding exemption certificate in effect under Section 13040, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

13042. A new withholding exemption certificate filed under this division in cases in which a previous certificate was in effect shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days from the date on which such certificate is so furnished, except that at the election of the employer such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished.

For purposes of this section, "status determination date," means January 1, May 1, July 1, and October 1, of each year.

13043. If a payment of wages is made to an employee by an employer—

(a) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(b) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(c) With respect to a period beginning in one and ending in another calendar year, or

(d) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee,

the manner of withholding and the amount to be deducted and withheld under this division shall be determined in accordance with authorized regulations prescribed by the department under which the withholding exemptions allowed to the employee in any calendar year shall approximate the withholding exemptions allowable with respect to an annual payroll period.

CHAPTER 4. REPORTS, RETURNS, AND STATEMENTS

13050. (a) Every employer or person required to deduct and withhold from an employee a tax under Section 13020, or who would have been required to deduct and withhold a tax under Section 13020 (determined without regard to Section 13025) if the employee had

claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his or her employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing all of the following:

(1) The name of such person.

(2) The name of the employee (and his or her social security or identifying number if wages have been paid).

(3) The total amount of wages, except that in the case of tips received by an employee in the course of his or her employment, the amounts required shall include only such tips as are included in statements furnished to the employer pursuant to Section 13055.

(4) The total amount deducted and withheld as tax under Section 13020.

(5) The total amount of worker contributions paid by the employee pursuant to Section 986

(6) The total amount of worker contributions paid by the employee pursuant to Section 3260.

(b) The statement required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the department may by authorized regulations prescribe.

(c) A duplicate of any statement made pursuant to this section and in accordance with authorized regulations prescribed by the department shall, when required by such regulations be filed with the department.

(d) The Franchise Tax Board shall be allowed access to the information filed with the department pursuant to this section.

13051. If a person or employer fails to file a statement of the aggregate amount of payments to another person required by subdivision (c) of Section 13050, unless such failure is due to reasonable cause and not to willful neglect, the person or employer shall pay one dollar ($1) for each such failure. The penalty shall be assessed and collected in the same manner as the tax.

13052. Any person or employer required under Section 13050 to furnish a statement to an employee who furnishes a false or fraudulent statement, or who fails to furnish a statement in the manner, at the time, and showing the information required under Section 13050, or regulations prescribed thereunder, shall for each such failure, unless due to reasonable cause, pay a penalty of fifty dollars ($50). The penalty shall be assessed and collected in the same manner as the tax.

13053. Every employer shall make an annual return on forms prescribed by the department, summarizing the total compensation paid and the tax withheld for each employee during the calendar year, which shall be filed at such time as may be prescribed by the department.

13054. If an employer fails to file the annual report of compensation paid and taxes withheld, required under Section 13053, on or before 30 days after notice has been given to the employer of his or her failure, unless such failure is due to reasonable cause, the employer, in addition to any other penalties imposed by this division and Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, shall pay a penalty of twenty-five dollars ($25) for each month of delinquency, but the total penalty shall not exceed five hundred dollars ($500). The penalty shall be assessed and collected in the same manner as the tax.

13055. Every employee who, in the course of his or her employment by an employer, receives in any calendar month tips which are wages shall report all such tips in one or more written statements furnished to his or her employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such authorized regulations, at such other times before such 10th day, and in such form and manner as may be prescribed by the department.

13056. (a) When required by authorized regulations prescribed by the department:

(1) Any person or employer required under the authority of this division to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) Any person with respect to whom a return, statement, or other document is required under the authority of this division to be made by another person shall furnish to such other person such identifying number as may be prescribed for securing his or her proper identification.

(3) Any person or employer required under the authority of this division to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(b) (1) Except as provided in paragraph (2), a return of any person with respect to his or her liability for tax, or any statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subdivision (a) as a return, statement, or other document with respect to another person.

(2) For purposes of paragraphs (2) and (3) of subdivision (a), a return of an estate or trust with respect to its liability for tax, and any statement or other document in support thereof, shall be considered as a return, statement, or other document with respect to each beneficiary of such estate or trust.

(c) For purposes of this section, the department is authorized to require such information as may be necessary to assign an identifying number to any person.

13057. (a) If any person who is required by regulations prescribed under Section 13056—

(1) To include his or her identifying number in any return, statement, or other document, or

(2) To furnish his or her identifying number to another person, or

(3) To include in any return, statement, or other document made with respect to another person the identifying number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall pay a penalty of five dollars ($5) for each such failure, unless such failure is due to reasonable cause.

(b) The penalty under this section shall be assessed and collected in the same manner as the tax.

13058. Except as otherwise provided by the department, any return, statement, or other document required to be made under any provision of this division or authorized regulations shall contain, or be verified by, a written declaration that it is made under the penalties of perjury. Such returns, and all other returns, statements, or other documents or copies thereof required by this division, shall be in such form as the department may from time to time prescribe, and shall be filed with the department. The department shall prepare blank forms for the returns, declarations, statements, or other documents and shall distribute them throughout the state and furnish them upon application. Failure to receive or secure the form does not relieve any employer or person from making any return, statement, or other document required.

CHAPTER 5. COLLECTIONS

13070. (a) The employer shall be liable for the payment of the tax required to be deducted and withheld under Section 13020, and shall not be liable to any person for the amount of such payment.

(b) Whenever any employer or person has withheld any amount pursuant to this division, the amount so withheld shall be held to be a special fund in trust for the State of California.

13071. If the employer, in violation of the provisions of this division, fails to deduct and withhold the tax under this division, and thereafter the tax against which such tax may be credited is paid or the taxpayer reports to the Franchise Tax Board the wages or gross income against which such tax would have been imposed, the tax so required to be deducted and withheld shall not be assessed against the employer, but this section shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

13072. The department may by notice, served personally or by first-class mail, require any employer, person, officer or department of the state, political subdivision or agency of the state, including the Regents of the University of California, a city organized under a

freeholders' charter, or a political body not a subdivision or agency of the state, having in their possession, or under their control, any credits or other personal property or other things of value, belonging to a taxpayer or to an employer or person who has failed to withhold and transmit amounts due pursuant to Section 13070 or 13073 to withhold, from such credits or other personal property or other things of value, the amount of any tax, interest, or penalties due from the taxpayer or the amount of any liability incurred by such employer or person for failure to withhold and transmit amounts due from a taxpayer and to transmit the amount withheld to the department at such times as it may designate.

13073. Any employer or person failing to withhold the amount due from any taxpayer and to transmit the same to the department after service of a notice pursuant to Section 13072 is liable for such amounts.

13074. Any employer or person required to withhold and transmit any amount pursuant to this division shall comply with the requirement without resort to any legal or equitable action in a court of law or equity. Any employer or person paying to the department any amount required by it to be withheld is not liable therefor to the person from whom withheld unless the amount withheld is refunded to the withholding agent.

13075. Whenever, under any provision of this division, service is authorized upon the state of any notice to withhold, unless expressly exempted from the provisions of this section, such service to be effective must, in addition to any other requirements, be made on the state agency owing the obligation prior to the time such agency presents the claim for payment thereof to the State Controller.

13076. If the employer is the United States, or this state, or any political subdivision thereof, including the Regents of the University of California, a city organized under a freeholders' charter, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such state, city organized under a freeholders' charter, or political subdivision, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

13077. (a) For purposes of Sections 13020 and 13070, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his or her own person and estate to the State of California in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

(b) If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of

the employees of such employer, with actual notice or knowledge that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this part to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his or her own person and estate to the State of California in a sum equal to the taxes (together with interest) which are not paid over to the State of California by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

(c) Any amounts paid to the State of California pursuant to this section shall be credited against the liability of the employer.

CHAPTER 6. VIOLATIONS

13090. Any person who, with or without intent to evade any requirement of this division or any lawful requirement of the department under this division, fails to file any return or to supply any information required under this division or who, with or without such intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable to a penalty of not more than one thousand dollars ($1,000). The penalty shall be recovered by the Attorney General in the name of the people by action in any court of competent jurisdiction.

The person is also guilty of a misdemeanor and shall upon conviction be fined not to exceed one thousand dollars ($1,000) or be imprisoned not to exceed one year, or both, at the discretion of the court.

13091. The prosecutor may, with the consent of the department, compromise any penalty for which he or she may bring action under this chapter. The penalties provided by this chapter are additional to all other penalties provided in this division and Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code.

13092. The certificate of the department to the effect that a return has not been filed or that information has not been supplied as required by this division is prima facie evidence that the return has not been filed or that the information has not been supplied.

13093. Any action or prosecution under this chapter shall be instituted within four years after the commission of the offense.

13094. (a) Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he or she does not believe to be true and correct as to every material matter, is guilty of a felony, and, upon conviction thereof, shall be fined not more than two thousand dollars ($2,000) or imprisoned in the state prison, or both, at the discretion of the court.

(b) The fact that an individual's name is signed to a return,

statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him or her.

13095. Any person who, within the time required by or under the provisions of this division, willfully fails to file any return or to supply any information with intent to evade any tax imposed by this division, or who, willfully and with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information, is punishable by imprisonment in the county jail not to exceed one year, or in the state prison, or by fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment, at the discretion of the court.

13096. The place of trial for the offenses enumerated in this chapter shall be in the county of residence or principal place of business of the defendant or defendants, except that if such defendant has no residence or principal place of business in this state, such trial shall be had in the County of Sacramento.

13097. Any person required under this division to collect, account for, and pay over any tax or amount required to be withheld who willfully fails to collect or truthfully account for and pay over such tax or amount shall, in addition to other penalties provided by law, be guilty of a felony, and, upon conviction thereof, shall be fined not more than two thousand dollars ($2,000) or imprisoned in the state prison, or both, at the discretion of the court.

13098. Any person or employer, who with or without intent to evade, fails to withhold, pursuant to Section 13020, or pay over any tax withheld, shall be guilty of a misdemeanor, and, upon conviction be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for not more than one year, or both, at the discretion of the court.

13099. In lieu of any other penalty provided by law (except the penalty provided by Section 13052), any person or employer required under the provisions of Section 13050 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under Section 13050, or regulations prescribed thereunder, shall, for each such offense, upon conviction thereof, be fined not more than one thousand dollars ($1,000), or imprisoned not more than one year, or both, at the discretion of the court.

13100. Any individual required to supply information to his or her employer under Section 13040, 13041, or 13042, who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under Section 13020, shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than five hundred dollars ($500).

SEC. 65. The repeal of any provision of the Personal Income Tax Law by this act shall not affect any act done or any right accruing or

accrued, or any suit or proceeding had nor commenced in any civil cause, before such repeal; but all rights and liabilities under such law shall continue, and may be enforced in the same manner, as if such repeal by this act had not been made.

SEC. 66. Because the Employment Development Department continuously administered, with its employees, the personal income tax withholding functions prior to the enactment of this act, pursuant to the delegation authorized by Section 15702.1 of the Government Code, the transfer of duties made by this act shall not include a transfer of any person serving in the state civil service from the Franchise Tax Board to the Employment Development Department. The transfer of functions by this act shall not change the status, position, or rights of any person serving in the state civil service with the Franchise Tax Board or the Employment Development Department.

SEC. 67. The provisions of this act shall be operative on July 1, 1981.

CHAPTER 1008

An act to amend Section 14026 of, and to add and repeal Section 14026.5 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. Section 14026 of the Welfare and Institutions Code is amended to read:

14026. (a) It is a misdemeanor for a Medi-Cal beneficiary to furnish, give, or lend his Medi-Cal card or labels to any person other than a provider of service as required under Medi-Cal regulations.

(b) It is a misdemeanor for any person who knows he is not eligible for Medi-Cal benefits to represent himself to any health care provider as a Medi-Cal beneficiary.

(c) This section shall not apply to any peace officer while investigating Medi-Cal fraud or other crimes in performance of his official duties or to any person working under the peace officer's immediate direction, supervision, or instruction when such peace officer has been issued a Medi-Cal card pursuant to Section 14026.5.

SEC. 2. Section 14026.5 is added to the Welfare and Institutions Code, to read:

14026.5. (a) The State Director of Health Services shall issue Medi-Cal cards to peace officers or persons working under such officers' immediate supervision for the purpose of conducting investigations of Medi-Cal fraud , or a violation of the Medical

Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, upon an order of a magistrate issued pursuant to subdivision (c).

(b) Nothing in this section shall be construed to mean that it is the exclusive method for conducting investigations for Medi-Cal fraud or for violations of the Medical Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(c) A magistrate may issue an order for the issuance of Medi-Cal cards to peace officers upon a showing of reasonable suspicion that the person being investigated has committed or is committing Medi-Cal fraud or a violation of the Medical Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. As used in this section, "reasonable suspicion" means that the peace officer subjectively entertains such a suspicion and that it is objectively reasonable for him to do so. The facts must be those which would cause any reasonable peace officer in a like position, drawing when appropriate on his training and experience, to suspect the same criminal activity and the same involvement by the person in question. A showing of reasonable suspicion may be made either by written statement under penalty of perjury or by oral statement taken under oath, recorded and transcribed.

(d) The State Department of Health Services shall report to the Legislature every six months commencing June 1, 1981, on the utilization of Medi-Cal cards issued pursuant to this section. The report shall include, among other matters, a description of the types of criminal investigations conducted pursuant thereto.

SEC. 3. Effective January 1, 1983, Section 14026.5 of the Welfare and Institutions Code is repealed unless the Legislature, prior to such date, enacts a bill continuing in existence the repealed provisions.

CHAPTER 1009

An act to amend the heading of Chapter 3.5 (commencing with Section 12360) of Title 2 of Part 4 of, and to amend Sections 12360, 12361, 12362, 12363, 12364, 12365, 12366, 12367, 12368, and 12369 of, the Penal Code, relating to body armor.

[Approved by Governor September 19, 1980. Filed with Secretary of State September 21, 1980.]

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

SECTION 1. The heading of Chapter 3.5 (commencing with Section 12360) of Title 2 of Part 4 of the Penal Code is amended to read:

CHAPTER 3.5. BODY ARMOR CERTIFICATION

SEC. 2. Section 12360 of the Penal Code is amended to read:

12360. No body armor shall be acquired by the commissioner pursuant to Section 2259.5 of the Vehicle Code unless, pursuant to subdivision (a) of Section 12361, the Department of Justice has certified such body armor.

SEC. 3. Section 12361 of the Penal Code is amended to read:

12361. (a) Before a body armor may be purchased for use by state peace officers the Department of Justice, after consultation with the Department of the California Highway Patrol and the California State Police Division, shall establish minimum ballistic performance standards, and shall determine that such armor satisfies such standards.

(b) Only body armor that meets state requirements under subdivision (a) for acquisition or purchase shall be eligible for testing for certification under the ballistic performance standards established by the Department of Justice; and only body armor that is certified as acceptable by the department shall be purchased for use by state peace officers.

SEC. 4. Section 12362 of the Penal Code is amended to read:

12362. Any person engaged in the manufacture or sale of body armor may apply to the Department of Justice for certification that a particular type of body armor manufactured or sold by that person is acceptable. The applicant shall reimburse the state for any actual expenses incurred by the state in testing and certifying a particular type of body armor.

SEC. 5. Section 12363 of the Penal Code is amended to read:

12363. Any application submitted pursuant to Section 12362 shall contain all of the following:

(a) Full written reports of any investigation conducted for the purpose of determining whether such body armor is acceptable.

(b) A full written statement of the design of such body armor.

(c) A full written statement of the methods used in, and the facilities and controls used for, the manufacture of such body armor.

(d) Such samples of body armor and its components as the department may require.

(e) Specimens of the instructions and advertisements used or proposed to be used for such body armor.

SEC. 6. Section 12364 of the Penal Code is amended to read:

12364. The Department of Justice, in cooperation with the Office of Procurement of the Department of General Services, shall establish a schedule for ballistic testing for certification pursuant to subdivision (b) of Section 12361.

SEC. 7. Section 12365 of the Penal Code is amended to read:

12365. The department shall issue an order refusing to certify a body armor as acceptable if, after due notice to the applicant, the department finds any of the following:

(a) That the body armor does not satisfy the ballistic performance

standards established by the department pursuant to subdivision (b) of Section 12361.

(b) That the application contains any misrepresentation of a material fact.

(c) That the application is materially incomplete.

(d) That the applicant has failed to reimburse the state as required by Section 12362.

SEC. 8. Section 12366 of the Penal Code is amended to read:

12366. The department shall issue an order revoking certification if, after due notice to the applicant, the department finds any of the following:

(a) That the experience or additional testing show that the body armor does not comply with the department's ballistic performance standards.

(b) That the application contains any misrepresentation of a material fact.

(c) The body armor must be retested for certification under new department standards.

SEC. 9. Section 12367 of the Penal Code is amended to read:

12367. The department shall adopt and promulgate regulations for the fair and efficient enforcement of this chapter.

SEC. 10. Section 12368 of the Penal Code is amended to read:

12368. (a) All purchases of certified body armor under the provisions of this chapter shall be made by the Department of General Services on behalf of an authorized state agency or department. Purchases of such body armor shall be based upon written requests submitted by an authorized state agency or department to the Department of General Services.

(b) The Department of General Services shall make certified body armor available to peace officer members of the California State Police Division as defined by Section 830.2 of the Penal Code, and to peace officers of the Department of Justice as defined by Section 830.3 of the Penal Code, while engaged in enforcement activities.

SEC. 11. Section 12369 of the Penal Code is amended to read:

12369. The Department of General Services shall, pursuant to departmental regulation, after consultation with the Department of the California Highway Patrol and the California State Police Division, define the term "enforcement activities" for purposes of this chapter, and develop standards regarding what constitutes sufficient wear on body armor to necessitate replacement thereof.